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Official Report of Debates (Hansard)

Thursday 19 June 1997

Journal des débats (Hansard)

Jeudi 19 juin 1997

Standing committee on general government

Tenant Protection Act, 1996

Comité permanent des affaires gouvernementales

Loi de 1996 sur la protection
des locataires



Chair: David Tilson
Clerk: Tom Prins

Président : David Tilson
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENT

Thursday 19 June 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Jeudi 19 juin 1997

*The committee met at 1001 in room 151.*TENANT PROTECTION ACT, 1996
LOI DE 1996 SUR LA PROTECTION
DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies /
Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

The Chair (Mr David Tilson): Good morning, ladies and gentlemen. We are reviewing this morning Bill 96. We are hearing a number of depositions with respect to this bill. I might advise committee members, I'm informed the clock that's in the committee room is about four or five minutes fast, but I'm told that it is now 10 o'clock, so we will start.

ONTARIO HUMAN RIGHTS COMMISSION

The Chair: Our first delegation this morning is the chief commissioner of the Ontario Human Rights Commission, Mr Keith Norton. Good morning, Mr Norton. You have 20 minutes to make a presentation to the committee.

Mr Keith Norton: Thank you very much, Mr Chairman, and honourable members. I want to thank you for the opportunity of appearing before you this morning to make some submissions with respect to Bill 96.

Perhaps at the outset I could briefly indicate what I see is the role of the Human Rights Commission in being here. I want to emphasize that we are here independently. The Human Rights Commission's obligation is to be objective in the advocacy of the advancement of human rights in the province of Ontario, and it's in that context that we are here, although I suspect that some of my submission you will have heard, or very similar submissions, from other people.

We are not part of any coalition; we are here independently as the Ontario Human Rights Commission.

I will during the course of my submission make some reference from time to time to statistical data which are drawn from research done by others, some of whom will be appearing before you or have already, and I'm thinking in particular of Dr Ornstein, who I believe appeared last week, and Dr Hulchanski, who I believe is on your list of delegates for next Thursday.

I'm not here in any attempt to make it more difficult to do business in Ontario, but rather to share some concerns I have about the possible impact of section 36 and section 200 of Bill 96, as they are now drafted, on some of our most vulnerable citizens in the province.

Subsection 2(1) of the Human Rights Code provides that every person has a right to equal treatment with respect to occupancy of accommodation without discrimination because of, among other things, the receipt of public assistance. I want to cast my comments a little more broadly than just receipt of public assistance to include all of those with lower-than-average family or individual incomes.

I have prepared a more scholarly statement which will be tabled with you and you can read it, but I'm going to try to keep my remarks a little less formal and refer to some handwritten notes that I have before me. But I would invite you to read the longer submission. It is footnoted, with authorities cited for the data that are included.

The protection against discrimination in housing was included in the code to reflect that international covenants to which Canada is a signator recognize that such items as food, clothing and shelter are three of the most fundamental needs and indeed rights of human beings. I know as one who has been involved in several business ventures myself over the years and who has advised others in business that it's important when making a business decision to have reliable, valid and relevant information available, and I'm certainly not here to submit that the people in the rental housing business in Ontario be denied reliable, valid or relevant information.

But I do have concern specifically with respect to the inclusion of income information in Bill 96 in section 36 and section 200. I would ask, what is the income information intended to provide to landlords? I suppose superficially it's a seductively simple concept. One would immediately, I'm sure, jump to the conclusion that you would ask a prospective tenant how much they make so that you can decide whether they will be able to pay their rent. It seems very logical.

But how, having that information, do you decide whether or not they can afford to pay their rent? The most common current practice is not to ask for a monthly budget showing how the individual would allocate their resources, but it's to apply an arbitrary rent-to-income ratio. I say "arbitrary" advisedly. Since the 19th century, there have been a series of arbitrary percentages of income that one is deemed to be capable of paying in rent, starting with, in the latter part of the 19th century, one week's pay for one month's rent.

But it's always been someone else's arbitrary estimate, not the individual's estimate, of what they can afford or what they can budget for their rent. It reflects no consideration of individual differences, such as the individual capacity to budget, capacity for self-discipline or different individual priorities.

Considering for a moment the current popularity of a 30% ratio, let's look at what that means in terms of the marketplace. By the way, as I was thinking about this a couple of evenings ago, it suddenly dawned on me that in all my years as a tenant, prior to owning my own home, as a young teacher and as a youngish lawyer starting out, I don't think there was any time, except for one year I can think of, when I paid less than 30% for my rent. The longest stretch of time during which I was a tenant and I didn't pay 30% of my income, and it was a 10-year stretch, was when I was a member of the Ontario Legislature and had a housing allowance. However, I digress.

The 1991 census indicates that 35% of all Canadian renters, 1.2 million households, paid at that time 30% or more of their income in rent. In Ontario in that same year, one third of all rental households, 430,000 households, paid more than 30% of their income as rent. Some 15%, or 195,000 households, paid 50% or more. If we just look for comparison as well at home owners, close to 30% of home owners in 1991, those people with mortgages, paid 30% or more of their income for accommodation, and 10% of those, 115,000 households where the home was owned, with a mortgage, paid 50% or more of their income for accommodation.

Obviously, if the 30% ratio — as I say, I'm using that because that seems to be the popularly used one these days — is applied uniformly across the board, based on 1991 data, and it could be even higher now, 430,000 individuals and families who are now renting or were then renting and paying more than 30% of their income could be denied access to accommodation. We would obviously have the worst housing crisis in our history if that were to be the case. There would be an enormous increase in the demand for rent-geared-to-income housing and, I would venture to say, a collapse of the rental housing industry in the province.

What does this tell us? I think one thing it tells us is that ratios are not a reliable indicator. Obviously, if 35% of renters pay more than 30%, which is what the conventional wisdom dictates, it's not a reliable indicator of ability to pay. Ratio is not a valid indicator. It doesn't tell you what you think it will.

1010

What does it do? It treats all families and individuals with lower-than-average incomes as if they are high-risk tenants. It doesn't respect individual characteristics such as thrift, self-discipline, willingness to sacrifice, individual rental histories. It treats everyone the same based upon a common characteristic, which is lower-than-average income. This is prejudice. This is discrimination. Income may not be a prohibited ground in the code, but you're certainly pre-judging people based upon a common and, I suggest, irrelevant characteristic and treating them differently.

It's based upon, I suspect, assumptions which are often made about people who are on public assistance or low-income people: that they more frequently default in the payment of rent; they're less responsible in the management of their money; they have more children. There are a whole host of assumptions that are made about those individuals.

I commend to you some research that was done by John Stapleton. I don't know whether John is still an Ontario government employee, but when I was Minister of Community and Social Services, he was an employee at that time. He has debunked those assumptions and demonstrated that in fact they are false. It's not true that people with low income and on public assistance default more frequently. It's not true that they are less responsible in the management of their money. I have no problem nor does the commission with the use of references, rental histories, credit ratings, provided that the absence for such individuals as young people starting out or immigrants who haven't had an opportunity to establish those records cannot lead to an adverse assumption.

What is the problem that the legislation is trying to address on behalf of landlords with the inclusion of income information? Is it to eliminate their default in payments? Is it to minimize the loss of income because of delays in eviction proceedings after default? I've often heard that complaint from landlords and if that's the case then perhaps there should be some review of the legislation with respect to procedures leading to eviction following a default. But you don't fix a procedural problem in one piece of legislation or in the courts by placing a whole category of people, those with lower-than-average income, be they elderly, disabled, women, or people on public assistance at risk of being arbitrarily denied access to accommodation.

I've heard people trying to draw an analogy between requiring income information in this instance and applying for a consumer loan from a financial institution. I think they're quite different things. I hope it is clear to everyone that in the case of a consumer loan one is asking a financial institution or an individual to advance to them, up front, cash, creating immediately an indebtedness. You want to know whether they have the capacity to repay that.

In the case of a tenancy arrangement, it's quite different. The landlord is entitled to require two-months' rent — first and last months' — in advance and every month of the tenancy arrangement, the tenant pays before they have used the facility. In other words, there is no indebtedness at the time the rent is paid. It's paid in advance every month of the agreement, so there's no great indebtedness at the time of a default. There may be debt incurred as a result of delays, but they're quite different arrangements.

I've also heard some suggestion that maybe just fixing a higher ratio than 30% might resolve the concerns. I suggest it doesn't really address the concern. It might reduce the size of the group affected, but it only targets more narrowly an even more needy group.

My recommendation to you is that you seriously consider removing income information from both section 36 and section 200. As long as income information can be used as a screening device, people of lower incomes, disproportionately the handicapped, the elderly, women and certain minority groups, will be at risk of being subjected to having their decisions dictated to them by someone else based on what I think the research shows quite clearly is an irrelevant factor, their income level, and also based upon on someone else's sense of what

their priorities ought to be. That's paternalistic. I suggest it's demeaning and it certainly discourages individual responsibility. Furthermore, it doesn't respect the free market. In fact, it fetters the decision-making of a very significant number of players in the marketplace.

In conclusion, I would like simply to say that the current method of using income information is not reliable, valid or a relevant indicator. It is not a sophisticated measure at all and in fact it discriminates. It does so in a critically important area, and that is access to housing.

I would, finally, remind you that Canada is a signator to an international covenant on economic, social and cultural rights which cites food, clothing and housing as basic rights recognized by the signators. I would urge you not to intentionally or otherwise, and I'm sure it would not be intentional, place any additional barriers to access to adequate housing before these individuals.

The Chair: Thank you, Mr Norton. I'm sure members of the committee will have some questions for you.

Mr Richard Patten (Ottawa Centre): Mr Norton, thank you for your presentation. I know you sent the minister a letter earlier outlining your concern on this particular issue. In fact I asked him a question in the House based on the letter that you sent and he acknowledged that, yes, there were some problems related to this section and I got the impression that he was amenable to responding positively, meaning that this would be taken out.

It's a fairly straightforward issue in my opinion. However, what would happen in the event that this section did stay in this piece of legislation and yet the Human Rights Code clearly shows that it's a discriminatory issue? What would that mean? Would you have to amend, then, the Human Rights Code?

Mr Norton: It wouldn't be for me to amend the Human Rights Code.

Mr Patten: No. You know what I mean.

Mr Norton: I suppose it would depend upon the nature of any regulation that might be promulgated pursuant to the provisions in this legislation.

I can't imagine a regulation being formulated in a way that would not be in conflict with the current provisions of the code. If it were to restrict, for example, the use of income information only to determine access to assisted housing, for example, that would probably be all right. The only problem I would have then is that the bill would then permit the collection of income information without restriction. It would only be restricted as to how it was used.

My concern then would be — and the cases we have seen often have been cases where it appears that income information is used as a method of screening out people on public assistance. If people are enabled to collect the information, even if they're restricted in the use of it, once you have it, my concern is it can be used in order to screen out individuals on public assistance. It's very difficult to police that if the legislation says you can collect it.

Mr Rosario Marchese (Fort York): Mr Norton, thank you for coming. I want to ask you two quick questions, if I can. First of all, Bruce Porter from the Centre for Equality Rights in Accommodation very much said what

you're saying today, and that was his sole concern, and Michael Ornstein, professor at the Institute for Social Research, said very much what you have been saying. Has the minister written back to you in response to your concerns? Have you had any correspondence from them since you've written to them?

Mr Norton: I haven't at this point, no. I had an acknowledgement of my letter, but I have not had any sort of follow-up on the substantive issues.

Mr Marchese: I want to move on to another matter that is of great concern to me as well and that's section 93, which allows landlords to apply to transfer their tenant somewhere else if their tenant's health changes or the landlord is unable to provide or chooses not to provide the extra services the tenant may require. I'm not sure if you'd had an opportunity see that.

1020

Mr Norton: I don't happen to have that before me at the moment. I'm sorry. Section 93?

Mr Marchese: People are very concerned that this allows the landlords or the caregivers in this regard to just transfer people when their health changes. We believe there's a contractual agreement between the two parties. For the landlord to then say, "Well, we're not able to provide for you any more and you've got to go," that too is an infringement, we believe, and there's protection in human rights for seniors and people with disabilities, two groups who are most affected by this. Obviously if you haven't had an opportunity to look at that very carefully —

Mr Norton: I haven't really contemplated that, but on first blush, since it's an application to a tribunal, there would be some oversight for any such decision. If there were any area in which it might impact upon the Human Rights Code, it might be in the area of disability possibly. But without having given it more thought, I wouldn't like to make any —

Mr Marchese: I would appreciate it, Mr Norton, if you had the time to reflect on that section.

Mr Steve Gilchrist (Scarborough East): Good morning, Mr Norton. Good to see you again.

First, I would just like to correct for the record Mr Patten's suggestion there would be a contradiction. The bill would amend the code; there would be no contradiction. In fact, the very inspiration for having this suggestion in there is to clarify the relationship between tenants and landlords, to clarify a problem that exists right now.

I would remind you that 80% of the rental units in this province are in buildings of six units or less. They're primarily owned by people who have put their money in there. That is their pension. In many cases they live in the same building, they look out at the same lawn and they park in the same parking lot. The suggestion is that they should have lesser rights in protecting their assets than the bank when they lease you a car.

I don't dispute for one second your suggestion about consumer loans, but I would suggest that leasing a car is identical in your context: that you pay in advance for an asset that you then have use of for the next month. The suggestion that banks be accorded the ability to do checks and yet someone whose sole assets are being exposed should not have the same right I find inconsistent.

Let me make one other point, Mr Norton. I'd like your response to this. Your very own submission would seem to rebut the entire case. You've said that at present 195,000 of the tenants in this province pay over 50% of their income towards rent. That means 195,000 landlords, or units under the authority of 195,000 landlords, have made that concession. They're not arbitrarily applying a 30% rule. Why would you expect landlords to operate any differently in terms of their appraisal of tenants and the decisions they make simply because we clarify that it is now a right to ask that when you and I are both aware that it is common practice and they are doing it right now?

The Chair: Thank you, Mr Gilchrist. Unfortunately, our time has expired.

Mr Norton: I don't get a chance to respond to that?

Mr Mike Colle (Oakwood): On a point of order, Mr Chair: The questions that have been raised by Mr Norton are so fundamental and so important, and the comments by the parliamentary assistant are so fundamental to this issue, that I move we have unanimous consent to extend Mr Norton's time by 10 minutes.

The Chair: I guess someone who will be following Mr Norton will not be able to make a presentation, but if that's —

Mr Colle: We'll just extend the time.

Interjections.

The Chair: There is not unanimous consent, Mr Colle.

Mr Marchese: Mr Tilson, 10 minutes is a bit excessive, clearly, because the members don't want that.

The Chair: Is this a point of order, Mr Marchese?

Mr Marchese: On a point of order: Mr Gilchrist has made a statement. All we want from Mr Norton is a response. It shouldn't take longer than two minutes, I suspect. Would that be agreeable to the other members, unanimous consent, for a two-minute response?

Interjection: No.

The Chair: There's not unanimous consent. Yes, Mr Duncan? A point of order?

Mr Dwight Duncan (Windsor-Walkerville): I have a question to place to the government.

The Chair: A question?

Mr Gilchrist: We said that they would be in writing.

The Chair: I'd prefer we do that either in your time for asking questions or —

Mr Gilchrist: Or in writing.

The Chair: In writing, yes.

Mr Duncan: We never agreed to that.

Mr Gilchrist: Yes, we did.

Mr Duncan: No, we didn't. We agreed at the last meeting —

The Chair: Ladies and gentlemen of the committee, I need your assistance. We're already five minutes past the time for —

Interjections.

The Chair: Order. Thank you, Mr Norton.

Mr Mario Sergio (Yorkview): You're muzzling everybody all over the place.

Mr Colle: Point of order, Mr Chairman.

Mr Sergio: You want to shut us up in the House; you want to shut us up in the committee here.

Mr Gilchrist: You voted for 20 minutes instead of 15.

Mr Sergio: No, we didn't vote. You don't want us to talk even in the House. What the hell are you talking about?

The Chair: Could we have some order? Mr Colle on a point of order.

Mr Colle: Mr Chairman, I've asked that there be an extension of time so that Mr Norton could at least address that critical issue put to him by the parliamentary assistant. Is it my understanding that we cannot even give Mr Norton two minutes?

The Chair: The next delegation is to start at 10:20. It is now 10:25.

Mr Colle: Mr Chairman, is that your problem with the next delegation? The next delegation, I am sure, would concede two minutes of their time.

The Chair: If the next delegation wants to talk for only five minutes, that's fine.

Mr Colle: Yes, two minutes less.

The Chair: Is there unanimous consent? There is not unanimous consent.

Mr Colle: Two minutes of your time; we'll sit here beyond the 10 minutes.

Mr Sergio: Use your common sense. Come on. Use your common sense.

Interjections.

The Chair: Order.

Mr Norton, thank you for appearing before us this morning. The next —

Interjections.

Mr Colle: Two minutes.

Mr Norton: Perhaps I can respond in writing.

The Chair: Thank you.

The Chair: The next delegation is the Barrie Action Committee for Women, Sherrie Tingley.

Ms Sherrie Tingley: I'd like to give two minutes of my time here to Mr Norton to respond, please.

The Chair: Actually, you don't have two minutes to give. You've got about three minutes to make your presentation.

Ms Tingley: I've got 20 minutes. I have 20 minutes.

Interjections.

Mr Sergio: It's not her fault.

Ms Tingley: I haven't even started.

Mr Duncan: She has 20 minutes.

Interjections.

Mr Sergio: It's not her problem.

Mr Gilchrist: No, you're her problem.

Mr Duncan: She has 20 minutes from the time she's called.

The Chair: Could we have some order?

Mr Duncan: So that means she's got 17 minutes.

Ms Tingley: I haven't started.

The Chair: Can we have some order?

Ms Tingley, if you wish Mr Norton to participate in your presentation, I have no problem with that.

Ms Tingley: Thank you.

Mr Norton: Perhaps I can very briefly respond to Mr Gilchrist's two questions. I'll try to recall them. I didn't mean to create such controversy.

With respect to the appropriate checks, I agree with you, Mr Gilchrist, that all relevant information should be available to a landlord. My presentation attempts to set

out that income information is demonstrably not a valid indicator. Credit checks, tenant histories, those kinds of things I have no problem with. They would appear to be much more relevant indicators of one's willingness and ability to pay.

The 195,000 households that you refer to, yes, I think does indicate that not all landlords are rigidly applying it. But then it raises another question: How are they exercising their discretion as to when they apply it? Is it being used to screen out people they deem to be "undesirable" because they are on public assistance? It's dangerous information, I think, and I think once it is enshrined in the legislation, you will see its use increase substantially because then it will be condoned by the Legislature of Ontario.

1030

BARRIE ACTION COMMITTEE FOR WOMEN

The Chair: Ms Tingley, the floor is yours.

Ms Tingley: I was going to end my presentation with a video, but I'm going to start it with a video. This is a video from the women's and children's shelter in Barrie, out of Toronto, and I wanted you to have a look at some of the people who will be affected by the changes you're making in this bill.

Audiovisual presentation.

Ms Tingley: I know some of you don't ever go to your women's shelter or get inside to see the faces of the people who are there. We feel very strongly that these are the very people you are affecting with your bill. I'm not sure if you are listening, so that's why I brought a video — maybe if you see it. It seems that instead of listening to the presentations in August — we presented in August — and the concerns speaker after speaker raised, they were just ignored. The bill is the same as the proposal. I am shocked, just shocked.

I am just wondering who you are really listening to. I looked through the 10 days of hearings and could not find one person asking for the amendment to the Human Rights Code. I guess now your chief commissioner didn't ask for it either, so I don't know who asked for this, who you're listening to.

I guess you'd be wondering what interest I am representing and you would say it was a special interest. I don't think it's a special interest to talk about the women and children who live in our communities in Ontario. I think you're listening to the vested interest groups or that special interest group of — you're talking about protecting investment, so hopefully I am giving you a different view.

Speaker after speaker said it would not create housing, that it's a disaster, it's a disaster for tenants. Section 200 would exclude almost all in my community, all the young families, everyone on social assistance, most of the families with children, a lot of elderly on fixed incomes. It just boggles my mind that you would go ahead with that.

In my community there are 3,000 single mothers on FBA. Of those, 624 are caring for disabled children who get a disabled child benefit. In total, that's 4,500 students.

So next time you go out and visit a classroom, maybe you can look at the classroom and think of all those kids who will be excluded from housing.

What happens is, people have to get scuzzier housing when they're excluded because of discrimination, and they end up paying more, so they have less money for the needs of their children.

During the debate of the bill I was there to witness Dianne Cunningham heckling the opposition, screaming: "They choose to move. They choose to move. They're protected if they stay." You know, they're protected with rent controls. They don't really have to worry about access, I guess.

I don't know anybody who chooses to move. Rarely do we sort of sit around and say, "Gee, next week I feel like moving." In my community, in the work that I do with women, women choose to move because they're being battered; they choose to move because they've been raped by a neighbour, a superintendent; they choose to move because their children need something different or their children have been victims of violence. To think that these are the people who will be expected to negotiate a new rent — you can't negotiate when you're desperate. These will be the people you will be excluding from the market; these will be the people who aren't protected by rent controls. It just boggles my mind.

I welcome your questions, I guess. I've given you my submission and maybe we can talk about it. Maybe you'll listen.

Mr Marchese: Thank you, Ms Tingley, for your ongoing interest and involvement in this issue. I know that you've been following the debates in the House and I know you also made a deputation the last time around.

We've been saying what you've been saying. Some 70% of the people who made deputations said, "Don't touch the rent control," that we put into place.

They come back later on saying: "We listen. We are listening. We listened. We always listen." They're always listening. Our concern is that they're not listening to the people who are very concerned about what's happening with this legislation.

I really get very worried about the Conservative view of property rights and landlord rights at the cost of the human rights of people who really don't have much of a choice, sometimes, as to where they go. I worry about that, because if you listen to Mr Gilchrist, these people have a right to essentially do what they like. We're worried that a lot of the people who are tenants earn such a low income that they have very little protection. If governments aren't there to protect them, who will?

You have a great deal of experience in this field, obviously. Do you have any other stories about how tenants will be affected? You comment on the fact that people are protected if they stay, but we know they're not protected. Do you want to comment on that part of it or other parts of this?

Ms Tingley: On the view of human rights versus property rights, I suppose there are some employers who would say that they can put someone who is black in the back of the shop, but we know that's discrimination. We're talking about discrimination, which should be illegal. I suppose employers maybe would say they

should have rights to discriminate and various groups should have — I mean, we're not asking for anything special. We're just saying you should not be able to discriminate against whole groups of people with no valid reason.

Mr Marchese: I agree.

Dianne Cunningham says people are protected if they stay. We know there is already a 2.8% guideline increase. These Tories have increased the capital expenses from 3% to 4% and these guys have added now property taxes and utilities on top of that. Do you know any of the people you work with who get increases of that kind that would allow them to keep pace with those types of increases?

Ms Tingley: I know a lot of people I work with saw a decrease of 21% in the money they had to pay rent and had to take their food money to make that up. No, I don't know anybody who gets those kind of increases. And I understand that if property taxes go down, the tenant still has to apply — well, number one, find out their property taxes went down, and then apply, and each person in the building has to apply.

1040

Mr Marcel Beaubien (Lambton): Ms Tingley, I see that you're the housing coordinator for We Care Non-profit Homes Inc in Barrie.

Ms Tingley: I was.

Mr Beaubien: You were. What's your definition of non-profit housing? Whom should it cater to? Could you enlighten me on that subject matter?

Ms Tingley: Who should live in non-profit housing?

Mr Beaubien: Yes. What is non-profit housing designed for?

Ms Tingley: I don't know how much time we have. I think it creates jobs, which we've seen.

Mr Beaubien: It creates what?

Ms Tingley: It creates jobs in construction. It creates good stock.

Mr Beaubien: But I thought we were talking about rental units.

Ms Tingley: Well, you're asking me.

Mr Beaubien: Isn't that what we're concerned about? I'm not talking about jobs. What was non-profit housing designed for? What was the original purpose of non-profit housing? Was it to create jobs?

Ms Tingley: Well, that was one part of it. It was to create wonderful communities. In my community we have about 17 non-profit sites that are close to schools, that are beautiful housing, that are diverse. I think it was meant to create a nice thing in the community — neighbourhoods. I'm not quite sure what your question is. Do you have non-profit housing in your community?

Mr Beaubien: Yes. I'm chairman of one.

Mr Colle: Just to be quite clear, Ms Tingley, as you know, Keith Norton said that if this bill is passed, women, the poor, the elderly and the disabled will basically be discriminated against in their ability to find housing. Do you agree with Mr Norton's assertion or do you agree with Mr Gilchrist's assertion that this is a business function?

Ms Tingley: I think people will be discriminated against. Our experience is that people are already dis-

criminated against, and it'll just open the door. Now they can, so they will.

Mr Colle: But who will be discriminated against? Which groups specifically?

Ms Tingley: The people on social assistance. In my community it'll be families with children. We'll see adults-only buildings because people with children who rent are poor in my community because of the lower housing costs. So we'll see adults-only buildings. Some of the nicer-quality housing that's in the better neighbourhoods will not be open to women and children and the seniors.

The Chair: Thank you, Ms Tingley, for your presentation.

GARDINER, ROBERTS

The Chair: The next presentation is, I assume, by the law firm of Gardiner, Roberts and the presenter is Carol Albert.

Ms Carol Albert: I would like to thank the committee for the opportunity to appear again and present some thoughts and concerns to the committee. I attended last August and I am pleased to see that some of the concerns I had expressed in the paper I presented at that time have been addressed in Bill 96.

Just for the committee's benefit, my own background so that you know from where I come and what I speak about, I am a practising lawyer and I've been practising in the field of residential tenancy law for 15 years, so I've seen how the system works or doesn't work in various aspects, and my client base is the landlord community.

I speak to you both from the perspective of a practitioner in the judicial system, or quasi-judicial system, as well as a practitioner who speaks for landlords. I also practise as a mediator and I have mediation experience that I bring with me as I speak to you. I also speak with a hat that I've newly assumed and that is my current role as a member of the board of directors of the Metropolitan Toronto Housing Authority which has allowed me to see a different perspective on housing as well.

The paper that I present today is much less formal and technical than the paper I presented in August. What I have done for this committee today is take 10 points about Bill 96 that I submit are significant points that need some consideration and that address some specific issues. I will take the time to address a few of those points with the committee today. I don't think the time permits all of the 10 points to be addressed.

I'll begin with the first point in the paper. This is a point that deals with merits and justice in decision-making. We have had, in the past 20 years of rent regulation legislation in Ontario, for all of that period of time except the period of the Rent Control Act, since 1992, a provision in the legislation that provided that the decision-makers must make their decision on the real merits and justice of the case. That clause or that provision was removed by the past legislation. It has not been put back in under this proposed bill. I submit and I recommend that it ought to be.

The merits and justice provision allowed the tribunal members to make decisions on the true issues before the tribunal and not defeat the applications on technicalities. That is how the court dealt with that provision and the tribunal members. Its absence could result in unnecessary litigation in the courts to try and correct irregularities. It's a simple amendment to make and it ought to be put back and restored.

The next point that I will address verbally to you deals with number 4 in my paper, in conjunction with number 3. That deals with the mediation process. I applaud the legislation for moving forward with the times in invoking a mediation process at the tribunal. I think that mediation is a very powerful and necessary part of the adjudicative process in the 1990s, and if done in a way that it has an opportunity for success, it will vastly reduce the bureaucracy of the decision-making process. But I have some concerns about the mediation process as we've seen it in action currently in its pilot project and as it might play out in the new legislation. Mediation — and the time allotted here is not quite enough to go into a discussion of mediation styles and mediation models, but mediation can be one of several types.

It can be a rights-based mediation, where a mediator takes two parties and says to one of them, "You're going to lose when you go to the hearing so you may as well settle now." That's a rights-based approach, and it ends up with a winner and a loser. That is what we've seen in action in the pilot projects, both at the court in landlord-tenant and in the tribunal in the Rent Control Act. That does not make full use of the opportunities that mediation can present.

Another model of mediation, the interests-based model, where one looks at the interests of the parties and sees whether there's a way to accommodate those interests and the needs of the parties, provides much greater opportunity for success of the system. Let me give you an example. On an eviction case, a rights-based model would say tenants are in arrears of rent; they owe the money; they lose; the landlord wins; they need the money because they're entitled to it.

However, it may be that the need of the tenant is some time, or the need of the tenant might be some assistance on budgeting. An interests-based mediation can look at those other factors and determine whether there's a way to bring the parties to a solution that will meet the needs of both parties. My recommendation here is that the mediation process be implemented but with enough training and enough resources for the mediators to really make a difference and perform their function effectively.

The third approach to mediation would be a transformative style, and this forum is certainly not long enough to get into that. But a transformative style looks at the ongoing relationship of the parties. How can these parties live together in the future? In landlord-tenant relationships that's often what's needed, and I urge this government to make sure that when this is brought into play those opportunities are provided in the mediation process. I'd be happy to expand on that when time permits.

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This brings me to the portion of the paper, number 3, on the freedom to agree. While having on the one hand a mediation opportunity in the legislation, we have tremendous restrictions in the legislation as proposed on what agreements can be entered into, a somewhat paternalistic approach to a concern that any agreement over a certain threshold is assumed to be a coerced agreement.

What I'm suggesting is freedom to agree, but where there may be a threshold that is exceeded, then that agreement can be run by one of the mediators or an adjudicator so that there can be a checkpoint as to whether the agreement was entered into freely. The opportunity for mediated solutions would certainly be enhanced if the box around what can be agreed to is removed but there is some check and balance on the question of whether or not there's a free and willing entering into of the agreement.

The next points that I'll take a couple of minutes to address deal with numbers 6 and 7 in my presentation, the proposed adjudication process. In my earlier presentation in August, I had made a strong recommendation that the landlord and tenant court function remain in the courts. I'm not going to repeat any of that. I think we've seen clearly the direction that this legislation is going and that it's going into a tribunal and all of the landlord-tenant conflict will be determined by tribunal adjudicators.

I repeat the concerns and the caution that these adjudicators be selected in such a way that they are independent, they are impartial not only in perception but in reality, as far removed from the ministry as possible; that their terms are such that these are allowed to support the impartiality both in fact and in perception; and that they receive the necessary training in process, in controlling the process and in the substantive area of law, and in dealing with the diversity issues of the people who will appear before them. Training in the human element is going to be critical in dealing with the kinds of issues that are before them.

I think if we see very careful attention paid to the selection process and the training, then we can have an adjudicative system that functions well. But in the absence of those things, we will see some of the horror stories we've seen in the past where hearings spin out of control. The adjudicators are unable to control the process, they are unable to control the people in the room; they are clearly, in the way they speak and the remarks they make in the hearings, showing bias; and they essentially end up with hearings that run three, four, five, 10 days. I've had hearings that ran 10 days of hearing time spread out over a year, and a good part of that was due to the inability of the adjudicator to control the process. These are the kinds of things that need to be avoided, and there are ways to do that.

The other concern on the adjudicative process, the tribunal that's being set up, is a concern in the operations side in trying to determine how many adjudicators, how many locations, all of those, how many cases the system will be able to process a day, a week, a month or a year. My concern is that unrealistic assumptions might be forming the foundation upon which this is being based.

Assumptions are being made that hearings should only take a certain number of minutes, when in reality that's not going to be the case. People need to be heard. People who are in situations where their accommodation is in issue need to be heard. I submit that 20 minutes, for example, is not enough time to hear a case. We need to have realistic expectations.

I don't know what the actual foundation is. I do know, though, that the court system is able to process cases because judges take authority and they cut people off. They say to people, "That's not relevant, move on." In my experience in 15 years in front of the tribunal, the laypeople who are adjudicating do not have that same confidence. They have a concern about natural justice and fairness and they're afraid to cut people off. Therefore, you end up with hearings that are much longer than they might be in a court. When you take a whole pile of cases out of the courts and put them into a tribunal, you're not going to see the time shortening to deal with these cases; it will lengthen. I just ask that realistic expectations for time be taken into account.

The next point I'll raise deals with vacancy decontrol. We know that one of the key elements of Bill 96 is partial vacancy decontrol; decontrol on turnover but then control comes back into play for the duration of the tenancy. That's an important message. That does send a message to the community that there is going to be a movement back towards a free market economy. Tenants are landlords' customers. In my years of representing landlords tenants are their customers and they want to treat them well. They want their customers to stay.

The vacancy decontrol element is a very important part of the confidence that the development community needs and the landlord community needs to put large infusions of money into creating new stock and restoring existing stock. That being the case, there is a phrase at the beginning of the section, and it's section 116 of the bill, that potentially undermines the confidence that would otherwise be there in vacancy decontrol as a concept. Those words are "unless otherwise prescribed," which suggests that with the stroke of the pen of the Lieutenant Governor in Council vacancy decontrol could be eliminated. That is a concern that I submit could undermine the message that this portion of the legislation is otherwise transmitting.

There's also a concern I'd like to raise regarding the fact that vacancy decontrol was not extended to include mobile home and land-lease home sites. It is suggested in the act that there will be a different system for them based on a threshold number rather than vacancy decontrol. But in the absence of regulations, so that there can be an evaluation of that number, it's very difficult for that community to evaluate what this legislation means to them and how they'll be able to continue to operate their parks.

Again, I bring the committee back to remembering landlords are in the business of providing accommodation, of providing housing units or, in mobile home cases, sites. They want to be able to continue to provide those sites and need to be able to do so in an economically responsible way, in a way that they can go to their

financial institutions and obtain the necessary cash to do the necessary improvements and certainty is required.

For mobile home and land-lease communities the absence of any understanding whatsoever of what their rules might be is quite difficult and having the regulation at least in draft form would assist them in evaluating this legislation.

Point 9 on my paper —

The Chair: You have about two minutes left.

Ms Albert: Thank you. Postponing the eviction order: Right now the courts have the power, on eviction, to postpone the eviction order for a period of up to one week. The tribunal members are proposed to be given the discretion to postpone an eviction order for an undetermined length of time with no discretion. I am suggesting that for some certainty there needs to be a time limitation put on that and I make a suggestion in my paper.

I'll take the last few moments and deal with transition provisions. The transition provisions provide that applications commenced under the Rent Control Act continue and be determined under that act. We are seeing a flurry of applications where tenants apply for rent reductions, to which all tenants in the building are generally added in certain kinds of cases, creating a vastly increased workload in a number of the offices for cases that take a long time to adjudicate and seem to be driven by the sunset of the current legislation.

I'm suggesting that as a transition provision any application for rent reduction that began after the date of introduction of Bill 96, any application filed on or after November 21, 1996, be terminated if the hearing has not been completed and that's without prejudice to the individual who made the application reapplying under the new legislation. In the absence of such a transition provision, we're very much going to see the current system spinning on for several years while these cases go on and on and on. Those are certain transition provisions that could put an end to the current system.

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I'm going to take the last 30 seconds and address the question that was raised regarding section 93 of the Rent Control Act. That dealt with the transfer of residents who needed additional care that the landlord could not provide.

I'd like this committee to be aware that that is a provision that's not in the general portion of the legislation. The section 93 provision was a specific care home provision. It deals with people who are in accommodation in care homes where they're getting care services and who are no longer mobile enough to be cared for in accordance with the services provided by the operator. This act puts in place an opportunity for those people to be placed in facilities where they can be properly cared for, and that's what section 93 was directed at.

The Chair: Thank you very much for your presentation. I know that all members of the committee, or all sides, have expressed a wish to ask you questions, but unfortunately we're out of time.

Mr Duncan: On a point of order, Mr Chair: I just have a question to place to you. It is the practice in many committees that at the end of all presentations and ques-

tions by all three caucuses, all three caucuses can have the opportunity to place a question either to the researcher or to the parliamentary assistant for a written response at a later date. Is it not your intention to allow that to occur in these hearings?

The Chair: I have no problem with your putting questions to the parliamentary assistant or the researcher. You can do it in two ways. You can do it in writing or you can do it during the time in which your caucus is allowed time for questions. But our problem is that the committee, all three parties, has agreed that there are time slots to hear deputations from members of the public, and I think it would be unfair for members of the public to take up the time to have a debate or lengthy questions or lengthy answers from members of the staff.

Mr Duncan: If I may, on Monday you accepted those questions. A check of the transcripts from Hansard showed that. Most other committees permit that. It is not an obligation that the response be forthcoming, but it has been the practice in every committee I've sat on, indeed a committee that I sat on that Mr Gilchrist had chaired, that at the end of the allotted time for responses and at the end of the allotted time for caucuses to place questions to delegations, there be a moment that each caucus, if they choose, can place a question for a further response later on in writing by either the researcher or the parliamentary assistant. Indeed we are now just gathering up the minutes from Monday, at which time you did permit that.

Finally, in other committees, I'm gathering up now situations where indeed the committee researcher provides a list of those questions on an ongoing basis so that they can be responded to. Those questions are normally taken outside of the time that's allotted to ask questions of delegations so that in fact caucuses can use that time appropriately to ask questions of delegations.

It would not be the opposition's perspective that we should use a lot of time to do that. Rather it would simply be an opportunity to place a very brief question. It would be noted and then allowed to be responded to at a later time.

The Chair: I have no problem if the procedure is to be changed. I'm in the hands of the committee. The procedure that we have before us now was agreed to by all parties. My ruling stands. If you wish to ask a question — I'll repeat it — you can ask it during the time that's allotted for questions of the delegation or you can put it in writing.

The next delegation is Maroulla and Harry Andreou.

Mr Sergio: Just for clarification, Mr Chair, on the same point: If those are the rules, I will abide by the rules, but are you saying that if we have a question on some things that the presenter has said that need information or clarification, we can't have a question of staff or the parliamentary assistant so that we provide the right information to our deputation? Are you saying that we cannot ask staff for that information to clarify a point made by a deputation?

The Chair: I'll do whatever this committee wishes. All I'm saying is that we've allowed these people, for example, 15 minutes to speak and already we're late.

Mr Sergio: No, no.

The Chair: We'll do whatever you wish.

Mr Sergio: Mr Chair, you're not answering the question. To clarify a point made by a deputation, can we ask a question of staff to clarify —

The Chair: During your time, Mr Sergio, yes. During the time allowed for questions.

Mr Marchese: I don't want to take away time from this deputation, but I think you're being unnecessarily restrictive in your judgement of this issue. We have done what Mr Duncan has been saying in the past. You're changing the rules a little bit because you were here in the last Parliament when we did exactly what he was suggesting. I'm saying to you, you're changing the rules unnecessarily, making it restrictive, for the record.

The Chair: Mr Marchese, we're free, if the committee wishes me to perform in a certain way — as I say, this deputation was supposed to start five minutes ago and it is now five after 11.

Mr Marchese: Go right ahead, Mr Tilson. Don't waste any more time.

The Chair: Good morning. Please proceed.

MAROULLA ANDREOU

HARRY ANDREOU

RAGAVAN SUBRAMANIAIYER

SINNATHURAI SINNATHAMBY

Ms Maroulla Andreou: My name is Maroulla Andreou and I have with me Mr Ragavan and Mr Sinnathurai to tell you a similar story like mine, and my son is here. He's coming in a second.

In 1985 I was a single mother and I looked for a two-bedroom apartment to live with my son. In 1987 I found one on the main floor in the building. I went there to rent it. The property manager there told me: "Don't bother making an application because you're on mother's allowance. The building here, we don't take people on mother's allowance." I got into the building anyway with somebody else's name, and in 1988 the building was sold.

I went to the new owners. I explained my story in the office. They said, "We don't see a problem." I gave them six months' post-dated cheques. They were cashing my cheques but they never changed the lease under my name. So after the six-month period I went back and I asked why the lease wasn't changed under my name. The new property manager said: "We don't want you in the building. You're on mother's allowance. Pack up and leave." While they were cashing my cheques for six months, it was fine, and then all of a sudden I wasn't good in the building. I was paying my rent on time. I never was late. Like I said, they had post-dated cheques. I was strong enough to answer to her and say, "I'm not going anywhere," because I knew my rights. What was going to happen if I didn't know my rights? Be in the streets with a child?

So this Bill 96, section 200, income information, I don't think is right for people on welfare. Now I'm successful. I went to school. I did not stay on mother's allowance. I went to school, I found a job, I moved out of there because I'm a homeowner. Am I a better person now? No, I'm the same person.

So please don't include section 200. Single mothers are going to be homeless. They're going to be on the street. My son is going to tell you how he felt when this happened to us. It affects young children, this situation. Single mothers always pay their rent and then they live on the rest of the money. It's not necessarily they are going to stay on mother's allowance. If they become single parents, it doesn't mean they are bad people. Income information is going to leave all single mothers homeless and living in shelters, and young kids suffer.

Harry, can you tell how you felt when the property manager in the building wanted us out of the building?

Mr Harry Andreou: I felt very angry because the property manager didn't want me or my mother in the building because she was on mother's allowance. I was scared that if we left the building, we had nowhere to live. I lived with that fear until we moved.

The Chair: Thanks, Harry. Now we have two other speakers who don't seem to be identified. Perhaps you could identify them.

Ms Andreou: Mr Ragavan and Mr Sinnathurai. I brought them with me to tell you that they had a similar story like mine, and I would like them to tell you their story. It's my time and I thought it's good if you hear someone else.

The Chair: Absolutely. Please proceed.

Mr Ragavan Subramaniaiyer: I am Ragavan. I am married. I have two kids. I came from Sri Lanka in August 1989 because of my country's problem. When I came to Canada, I was trying to get an apartment. They were screening me because I didn't have a steady income or a bank balance. It took me nearly a year. Four of us — me, my wife and two kids — were sleeping in an 8 by 10 room. I was living with my brother. I have gone to more than 100 apartments to look for housing. When they asked me how much yearly income, I told them approximately \$20,000. They asked for more than \$35,000 to give me an application. Finally, in August 1990 I got an apartment and the rent was suddenly increased by \$200, and luckily I got Metro Toronto Housing accommodation. I moved there in April 1991.

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When I was looking for a house that one year, when they refused to give me an application, my wife started to cry on the road. I didn't know what to do. In my country I have a big house with four rooms, phone, car, everything, all the facilities. I came here only because of what, as you know, is happening in Sri Lanka. I don't want to explain that.

If you change any rules here, it will be very difficult to get housing and other things because the people are screened by their income and bank balance. So far I've never been late to pay my rent or had any violations at my apartment. Don't change the rules and give the right to discriminate against us by apartment owners.

Mr Sinnathurai Sinnathamby: My name is Sinnathurai. I am from Sri Lanka. I came here in 1994 as a refugee claimant. When I came here, I lived with my brother-in-law because we are looking for an apartment because at that time I can't work here. I am political refugee claimant. I applied for a lot of apartments and

they said if you are on welfare, they don't give me the apartment because of the welfare.

After, I found a job and I got an apartment, but it took me almost three months to get into the apartment. Until then I lived with my brother-in-law in one room with my daughter. Three persons lived in that room. If I went to an apartment, for payment there is no problem because the welfare pays my rent, but they don't accept the welfare people in the apartment. I applied to around seven apartments. Everybody, they don't give me the apartment because of the welfare. At one apartment he — sorry.

Mr Subramaniaiyer: He's my brother-in-law. I went to all the apartments and they asked whether I can sign an agreement with them. Also they asked my income, and after a week I got a letter from them that, "According to your income, we are not willing to give you it," because I was getting at that time about \$19,000 a year. But after a few months he got an apartment and he never failed to pay rent before the third of the month. The apartment owners are happy with him because he's never late, but if they start to screen like this, he won't get an apartment. Still after six months he started work and until today he's working in Canada. The only thing is, he's getting less than \$25,000 a year, because I prepare tax for him. If they ask \$25,000, \$30,000, he won't get another apartment.

Mr Sinnathamby: Thank you for listening.

The Chair: I'm afraid we've run out of time, but thank you very much for your presentation.

FAIR RENTAL POLICY ORGANIZATION OF ONTARIO

The Chair: The next delegation is the Fair Rental Policy Organization of Ontario.

Mr Allan Greenberg: I want to thank you for the opportunity to address the committee. My name is Allan Greenberg. I'm chair of the Fair Rental Policy Organization of Ontario. With me is Phil Dewan, the president of Fair Rental.

In the 12 years since Fair Rental was formed, we have participated in hearings on Bill 51, Bill 11, Bill 4, the NDP green paper, Bill 121, the New Directions consultant paper and now Bill 96. Throughout that time, one of the few constants has been Fair Rental's commitment to reducing the unnecessary regulatory burden on landlords and finding balanced solutions to Ontario's housing needs.

I would like to start by going back to the year of our founding, 1985, to quote a statement which is as valid today as it was then.

"The availability of affordable housing for low-income families is a serious and growing problem. There are many families that can't even afford the rent they must pay under controls, but the solution to their plight does not lie in a program guaranteed to limit availability, to produce shortages and a deterioration in our housing stock. If the Ontario government is really interested in meeting Ontario's future housing needs, it would abandon its ill-conceived proposals and move instead to phase out the existing scheme of rent controls."

There are two aspects of this statement which deserve comment. The first is its timeliness. Though the quote refers specifically to the Liberals' 1985 promise to extend rent controls to previously exempt units, it could have applied equally to Bill 51, the retroactive Bill 4, the Rent Control Act under which the province suffers today and, yes, the proposed Tenant Protection Act. In all cases, a clear commitment to move away from a regulated regime would have served the province better.

The other major point of interest is that the statement did not originate with Fair Rental, nor with any other landlord organization. The quotation comes from an editorial in the *Toronto Star*, the very paper which helped drive the province into controls 10 years prior to that.

The *Star's* editorial position, which it maintains today, is emblematic of a general shift in society. Virtually every major newspaper in Ontario agrees rent controls are harmful. Economists are united in their consensus. Jurisdiction after jurisdiction in North America has moved to eliminate or reduce controls: Saskatchewan, Nova Scotia, New York, Massachusetts, California.

In the past five years, only two political parties have unwisely bucked this trend and moved from lesser to greater control. The NDP approach in BC was modest and included vacancy decontrol and free negotiations. That leaves the NDP in Ontario as the one entity so misguided as to introduce rigid rent controls despite ample evidence of the harm they cause.

It is to this government's credit that they've introduced a comprehensive package to reform landlord and tenant law in the province. But let there be no mistake: Bill 96 still maintains rent controls, however much the opposition parties and the tenant advocates may say otherwise.

The evidence of the effects of rent control in Ontario is all too clear. There is no new supply coming on stream despite lower building costs. There is a massive deficit in capital expenditures in existing buildings because the existing Rent Control Act restrictions have prevented ongoing renovation. The ultimate solution to these problems is dependent on the long-term elimination of rent controls.

In this respect, Bill 96 is far too limited. It preserves rent control as a permanent feature of the legislative landscape and makes no commitment to the phase-out of controls. In comparison to the ideal, it is sadly lacking. In comparison to the current act, however, it's a significant improvement. In that light, I would like to comment on a few specific aspects of Bill 96.

The biggest improvement with Bill 96 is simply that it will replace the Rent Control Act. Rarely has the province seen a piece of legislation so one-sided, ill-considered and damaging to the long-run interest of those it purports to protect. Both the current government and the official opposition opposed passage of the RCA, and their opposition was well founded.

I would like to first speak to three beneficial changes included in the bill. I will then briefly move on to some flaws and omissions and our suggestions for amending them.

Much of the debate around the bill has focused on the potential impact of generating new rental housing. FRPO agrees that Bill 96 is the first step needed on the regula-

tory front to create an environment for new development. Along with this must come changes in taxation, the planning process and so on, as laid out in the Lampert report. In the interest of time, I will let other organizations address these issues in more detail.

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There has been far less comment on the significance of the new proposals relating to the ability to conduct capital expenditures, yet preservation of the existing stock is the critical issue for the future. The RCA imposed a punitive regime which had the effect of preventing landlords from investing in major capital programs in their buildings. That is not a statement of political rhetoric; it is a point of fact.

The number of applications under the Rent Control Act provides damning evidence. In 1995 there were just 177 landlord applications for above-guideline increases and many of these applications were based on extraordinary operating costs, not capital. Quite simply, it is impossible to conserve the 172,000 rental buildings in the province with that kind of performance.

In Bill 96 the minister has recognized the importance of stimulating capital spending to preserve the aging housing stock. There are a number of substantial improvements over the RCA, including the removal of the 2% dilution, elimination of the cost-no-longer-borne provision, increasing the cap from 3% to 4%, and allowing full carry-forward until the costs are recovered.

With an estimated \$10 billion in accumulated capital work needed on apartment buildings and virtually no work done for the past five years, addressing the capital deficit is critical. The changes in Bill 96 will facilitate preservation of existing stock, create tens of thousands of jobs and ensure quality accommodation for tenants. They should be supported by the committee.

The second change I would like to address is the introduction of vacancy decontrol. Vacancy decontrol is a mechanism which will protect sitting tenants by maintaining limits on increases while allowing a rent adjustment on vacancy. For the majority of units, vacancy decontrol is a valuable linkage to the market but will have little impact in the short term.

Tenant advocates claim that the rents in the province will go up by 20% or 30% as a result. Let's be clear: There is no support for such statements — no evidence, no studies, no reasonable basis for the arguments that have been offered. It will not happen.

In most large urban centres and almost all small ones, vacancy rates in Ontario today are far above CMHC's declared 2% to 3% equilibrium rate: 6% in London, 4.9% in Ottawa, 5.6% in St Catharines-Niagara, 6.8% in Sudbury. In these markets, vacancy decontrol will have no impact on average rent increases. To quote CMHC in London, "The advantage is now to the tenant, so overall rates will not increase." Even in Metro Toronto, where the rate is 1.2% and rising, more than 50% of the units have rents well below their legal maximum. As economist John Todd's study demonstrated, in such circumstances even the complete removal of controls would have minimal impact.

The experience of other jurisdictions with vacancy decontrol proves the point. To cite just one example, the

average increase for a 2-bedroom unit in Vancouver last year under vacancy decontrol was 2.3%, or half a percent less than the rent control guideline in Ontario. So much for the threat of vacancy decontrol.

At this point, I'd like to ask Phil Dewan to address the third issue, the human rights provisions in the bill.

Mr Philip Dewan: The chief commissioner of the Human Rights Commission and others have claimed that sections 36 and 200 will allow an unprecedented ability for landlords to refuse tenants on the basis of income, leading to the exclusion of virtually all social assistance recipients, single mothers and other protected groups. Neither of these statements is true.

(1) There is no new right being granted to landlords. There is no protection being taken away from tenants. The bill will maintain the status quo. Landlords will merely have the continued right to do what they have been doing, which has resulted, for example, in almost 90% of social assistance recipients living in private rental housing.

(2) The credit practices of landlords are no different from those of any other business sector. When anyone applies to purchase or lease a product on credit, be it a house, a car, an appliance or an apartment, income must be a consideration. Removing the right to consider income from the business equation for landlords could only be justified if it is removed from all businesses. This may be the long-term goal of some — CERA has already launched a case against a trust company for refusing a mortgage based on income — but it is not a policy any province, state or country has endorsed, and neither should Ontario.

(3) There is ample evidence that income is relevant to ability to pay. This is only common sense. Without the means to pay, the best intentions in the world are irrelevant. Dr Ornstein, who argued vociferously before this committee that using income information would be unnecessary and exclusionary, presented very contradictory evidence in a recent court case. In *Masse v Ontario*, Dr Ornstein was a witness for a group suing the Ontario government over the cutbacks in welfare rates. He testified under oath that as a result of reduced welfare rates hundreds of thousands of low-income people would be "forced out of their present accommodations," many because they would "go into arrears of rent and thus trigger the eviction procedures under the Landlord and Tenant Act."

They cannot have it both ways. If reducing tenants' income will directly lead to inability to pay rent, resulting in eviction, then it is disingenuous to claim that income is irrelevant to a landlord's evaluation of prospective risk in tenant selection.

The point of using income information is to allow landlords to assess the risk in selecting a specific tenant. Some landlords can or will accept higher risks than others because of their particular financial or market circumstances. No one has ever said a rent-to-income ratio should be mandated for all landlords. It is one of several tools needed.

FRPO has always said we would be quite happy to embrace a policy such as that of the Quebec Human Rights Tribunal, where landlords must consider a basket

of different indicators. Income criteria would not be used in isolation.

What Mr Norton and his colleagues have glossed over is the key issue: what to do when an applicant has no credit rating, rental history, guarantor etc. The response of the commission and CERA is that in such circumstances the landlord should still not be able to use income to determine eligibility. He should be obliged to rent to the applicant on good faith, without any indication of ability to pay. In other words, a 16-year-old with a part-time job at McDonald's or even with no source of income at all could apply to rent the most expensive penthouse on the Toronto waterfront. The landlord would have no legal right to question his ability to pay.

Mr Porter of CERA told the committee that there will never be a human rights challenge to a refusal of tenancy to a prospective tenant who clearly does not have the means to pay the rent, but a landlord cannot determine if an applicant clearly does not have the means to pay the rent unless he evaluates those means: the amount of income, the amount of the rent, and the relationship of the two. Ironically, Mr Porter is supporting the use of a rent-to-income approach. He just doesn't want to give it that name.

Obviously, some objective rules are needed. We have proposed a two-part test: (1) Where the landlord has access to financial records such as credit rating, rental history, employment history, bank references etc, income should be used as only one factor, along with these other criteria, to determine eligibility; (2) where credit records and rental are not available, by reason of non-existence or inaccessibility, the absence of such information should not be held against the applicant. In that, we agree with Mr Norton.

However, absent credit or rental information, the landlord must be allowed to make a determination based on the income of the applicant, that being the only information available on which a judgement of ability to pay can be reached. The combination of these reasonable regulations on use of income criteria, along with proposed reforms to welfare rules to allow direct payment, would benefit low-income tenants in obtaining housing while protecting the rights of owners.

Let me move on to FRPO's proposals for changes in the bill. Later this month we'll table with the committee a detailed submission concluding some 85 proposed amendments. A brief summary highlighting some of the most important is appended. I'm just going to touch on a couple of them briefly so we have some time available for questions.

The first issue concerns landlord and tenant negotiation. Bill 96 allows for modest recognition of the principle of negotiation but limits it to the 4% cap even where the tenant is agreeable to pay more. The concern seems to be that without a cap in place some tenants would be coerced into accepting larger increases than they really desire. We have proposed a simple alternative to ensure that there can be no element of coercion: that in order to obtain an increase above the 4% cap, both parties would have to appear at the tribunal in person, sign an affidavit and be available to be questioned.

Next, I would like to address one of the major concerns we had when we appeared last summer before the committee: the elimination of legal maximum rent. As much as we would like to preserve the concept of legal maximum, we recognize that the government is not likely to change on this issue. Therefore, it becomes critically important to ensure that the discounting rules which are to be prescribed relative to section 113 of the bill work effectively. We'd be happy to work with the government and the committee on trying to make sure that does happen.

Finally, I turn to changes to improve landlord and tenant law. Too little attention has been paid to the proposed changes in the landlord and tenant regime. The government has committed that the new system will be faster and more efficient than the current approach. This is certainly welcome news. When it takes three or four months to obtain a hearing date on a routine matter but when a professional tenant from hell can manipulate the system for 10 years while refusing to pay rent and ignoring court orders, changes are desperately needed.

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That's why we were somewhat surprised that amid some of the positive changes are some proposals which will inevitably make the system less efficient than today. One is allowing the discretion to the tribunal to refuse or postpone eviction indefinitely, which goes beyond the current provisions in the Landlord and Tenant Act, which allows a seven-day limitation. Another is the discretion to the tribunal to require a tenant to pay in the amount in dispute only at the discretion of the tribunal member. This should be mandatory, as it is in the Landlord and Tenant Act. Failure to correct these omissions will encourage abuse of the process and result in unnecessary workload for the tribunal.

Bill 96 is far from perfect. However, we believe that with amendments in these areas the government has the opportunity to create the environment for the ultimate protection for tenants: a functioning market for rental housing in Ontario.

We'd be pleased to answer questions.

Mr Wayne Wettlaufer (Kitchener): Mr Dewan, I want to thank you for appearing here again this year. I have some sympathy with landlords, but I also have some sympathy with the tenants. I've been both. One thing I noticed last year through the course of our hearings, and I've noticed it again already this year, is that the tenant groups come from one perspective, the landlords come from another, and never the twain shall meet. Both groups want it all their own way. What we have tried to do is achieve a balance, recognizing that both have needs.

You talk in your presentation about landlord and tenant negotiation, that Bill 96 limits the agreements of landlords and tenants to the 4% cap on capital improvements in spite of the fact that some tenants would want more improvements and would be willing to pay more. I don't know of too many tenants who would be willing to pay more than the 4%, albeit some will, I agree, but not too many would. I think we have been fair, allowing the 4%. Would you agree with that?

Mr Dewan: I would agree that's an improvement on what we have. We're suggesting it should go further, in

that if landlords and tenants can come to an agreement, why would the government be concerned about what they agree to if both parties are happy?

Mr Wettlaufer: How many would come to an agreement?

Mr Dewan: I'm not sure there would be a whole lot, but there are examples, and that should be encouraged by the government. That's what we're trying to do, to get the parties together, as you said. If they can do that, why in the world would you want to prevent it?

Mr Duncan: Mr Greenberg and Mr Dewan, your presentation was very self-explanatory, but in terms of the issue of generating more rental accommodation, you have cited a number of jurisdictions where they've either eliminated or reduced rent controls. Do you have information on the development of additional rental accommodation after the decontrol or removal of rent controls, the evidence that would say there has been an increase in the rental units?

Mr Dewan: In a number of the jurisdictions — and these are relatively recent — if you look at the situation in Nova Scotia, for example, Halifax in I believe 1995 had about 630 new units built in a market that already had a 7% vacancy rate. In Toronto, with a 0.8% vacancy rate and many times the population, we had 37 units built that year. Those kinds of numbers reflect partly, not entirely but partly, the changes in the regulatory environment.

Mr Greenberg: I think the second part of that equation is that, as has been well studied, rent controls are only the first step to creating a psychological environment to start building. There's a lot more that's needed, but without this first step there will be no building.

Mr Duncan: So the issue goes well beyond simply rent control and the issues of taxation and other issues you've raised that create the environment where —

Mr Greenberg: The first step is creating an environment where —

The Chair: Mr Marchese. Oh, I'm sorry. Finished?

Mr Marchese: There are a lot of questions I would have if we had the time, but I'll limit it to two quickly. A lawyer who came earlier on represents the landlords, and she says very much what you say. "The proposed legislation has taken a first step towards restoring a business relationship between landlords and their customers," and you talk about "the modest recognition of the principle of landlord and tenant negotiation." But you must admit, both of you, that it's not an even relationship between those who own buildings and the many who are on low income, 33%, people who don't understand the language very well, immigrants, recent refugees, people with disabilities, citizens. Do you think that relationship is even, in your view, or that somehow it seems fair to you?

Mr Greenberg: First of all, your government changed the whole relationship between our customers and ourselves. You created a barrier of communication and took away our ability to serve our customers. This program of trying to encourage some negotiation and bring in some of the free market systems prevalent throughout the world will help restore those relationships.

Mr Marchese: I understand.

There is the matter of orders prohibiting rent increases. In my view they've been very effective in dealing with maintenance problems in the majority of situations. Would you agree or disagree that OPRI, the orders prohibiting rent increases, are a less costly way of dealing with outstanding maintenance problems?

Mr Dewan: The big problem with orders preventing rent increases is that they take away the discretion which really lies at the municipal level, with the individual property standards officer, to go in and determine what needs to be done and work out an arrangement between the parties that will make sure the work can be facilitated. There are more than adequate powers in this bill in terms of the penalty clauses if a landlord does not comply, but the people at the grass roots, the property standards officers in the field, are the ones who should be making those determinations.

The Chair: Mr Greenberg, Mr Dewan, thank you for coming this morning.

FEDERATION OF METRO TENANTS' ASSOCIATIONS

The Chair: The final deputation this morning is the Federation of Metro Tenants' Associations.

Mr Howard Tessler: My name is Howard Tessler. I'm the executive director of the Federation of Metro Tenants' Associations. With me today are Janet Morrison, the secretary of our board of directors, and Mr Tim Collins, a former executive director and counsel for the New York City rent guidelines board. Mr Collins has graciously donated his time to join us and share his expertise on the subject of vacancy decontrol.

I would like to thank the standing committee on general government for allowing us to comment on Bill 96, a piece of legislation that will not only affect Ontario's millions of tenants but will affect our economy. Tenants pay \$10 billion annually in rent and \$1.5 billion in property tax. This government cannot strip away the legal rights of one third of this province's residents without causing a serious tear in the social fabric, and this is exactly what you're doing with Bill 96, ladies and gentlemen.

This legislation is much more than the simple consolidation of various pieces of landlord and tenant legislation. It is not simplifying legislation so that landlords and tenants can easily understand the rules that govern their legal relationships. It is not the cutting of red tape that has grown into legalistic barbed wire, as Mr George Goldlist and the previous FRPO representative would like us to believe, that separates the benevolent, caring landlord from his tenants. Bill 96 is nothing less than the destruction of almost 30 years of consumer protection legislation in the residential rental industry.

What Bill 96 ultimately means for landlords and tenants is the regression into a relationship as described by Mr A.F. Lawrence, a member of the Progressive Conservative government in 1969. Let me quote him from Hansard:

"The body of law governing the relationship between a landlord and his tenant was probably best described as feudal in origin. In spite of some modifications, it has

perpetuated a relationship in which the landlord ruled like a medieval baron over his tenants. The rights allowed him by law, even though they have been resorted to less and less, were greater than those of any other class of persons involved in commercial dealings with the public."

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Ms Janet Morrison: We've asked Mr Collins to join us because vacancy decontrol lies at the very heart of Bill 96. Vacancy decontrol is a smokescreen by which this government intends to deregulate the rental housing market. The government needs a smokescreen to avoid the adverse media attention that Mr Greg Lampert warned would occur if full decontrol is allowed. In the government-subsidized commission study of 1995, Mr Lampert warned that such adverse publicity might well force future governments to reinstate rent control.

On October 17, 1995, staff and members of the federation met senior Ministry of Municipal Affairs and Housing staff who stated categorically that it was the intention of this government to end price controls in the residential rental market by the end of its mandate. They concede decontrol will do just that.

At another meeting with senior staff we asked what research had been done on the possible effect of ending rent control. A senior policy advisor stated that the ministry had very little money available for research on that subject.

The federation does not find such answers acceptable. One third of the population of this province deserves better than policy built on pie-in-the-sky speculation. If Mr Leach wishes to fantasize, let him fantasize about being re-elected, not about our homes.

Mr Tessler: I must reiterate that Bill 96 is the destruction of 30 years of consumer protection legislation in the rental housing market. Vacancy decontrol of the industry here will produce the same or very similar results it has produced in other jurisdictions: higher rents, increased harassment by landlords and increased degeneration of the existing housing stock.

Mr Collins, you have the floor.

Mr Tim Collins: It's a pleasure to be here. I should say at the outset that it's kind of an honour to be up here, but I'm a little disconcerted. Many of us in the States think of Canadians as being wiser or our somewhat more prudent and stable elder sister, but I think you have some of the same problems we've witnessed, certainly in New York, where we have recently witnessed probably the most serious threat to our rent regulations in the last 50 years.

I have to commend this process. I see a lot of thoughtful people here, and I see individuals who are interested in hearing testimony from a lot of different viewpoints. Unfortunately, in New York state, the leader of our assembly, the leader of our Senate, and the Governor met in closed session at the 11th hour and cut a deal that I think was very harmful to tenants and has been widely criticized in the press. I think they're going to pay a very heavy political price for that. I hope you have a more professional and thoughtful process.

Let me speak briefly about the history of New York's rent laws. You may know that they were started initially in the Second World War as a result of a shift of

resources to the war effort. There was no new housing construction. The Roosevelt administration basically froze rents for a time, and the state of New York took that program over in 1950.

What is interesting about the New York experience is that during the period from 1947 to 1966, when New York had very strict rent controls, it was also a period when we had one of the biggest housing construction booms in our history. New construction has always been exempted from the rent laws in New York. The biggest housing construction boom occurred in the 1920s, also a period when we had strict rent controls.

There has been no connection that I'm aware of between housing construction and rent regulation, and the reason for that is simply that housing construction in the city is very expensive. It's driven by the economy largely, employment conditions, effective demand, the relative incomes of the tenant population to create the demand that would cause developers to build new housing.

One thing I've noticed about Toronto's situation that I think is something you have to be deeply concerned about is that you have a very, very low vacancy rate here. In New York City, we're still under a housing emergency; our vacancy rate is 4%. I believe that in Toronto, it's somewhere around 1%.

Mr Tessler: It's 1.2%.

Mr Collins: I wouldn't describe that as an emergency; I would describe as a calamity. It seems to me that tenants are at a very severe market disadvantage when bargaining for housing in the city of Toronto.

Let me talk about the experience that New York had with vacancy decontrol. As I mentioned, there were strict rent controls in effect through the 1960s. In 1971 Nelson Rockefeller, who was governor at that time, decided that it was time to begin to dismantle the system. Vacancy deregulation was adopted. There was a hope at the time that abandonment, which was a widespread problem in the city, and new construction, which had been depressed, would be turned around as a result of vacancy decontrol.

Three years later, in 1974, Nelson Rockefeller commissioned an assembly committee to examine what had in fact happened and to consider whether changes needed to be made. The findings were essentially that vacancy decontrol had been a disaster. Rents had gone up in the city by about 52%. There were widespread complaints of harassment from many quarters. There was no beneficial impact on new construction. There was no change in the abandonment situation. As a result, the committee recommended an immediate abrogation of vacancy decontrol.

I will read one of the major findings of the committee, one of their major conclusions. It basically summarizes the sentiment of the committee as a whole.

"Vacancy decontrol has neither stimulated new building construction, stopped abandonment, spurred renovation, nor has it brought substantial new money into the city's housing stock. It has led to tenant insecurity over tenure and harassment. Vacancy decontrol has placed an extreme hardship on the tenants of this state, particularly on the elderly and the poor. The policy of returning

vacant apartments to the free market has failed because the free market does not exist in the metropolitan area."

That was a time when I believe the vacancy rate was around 2% in the city. You actually have a lower vacancy rate in Toronto.

To quote a few sections of the report with regard to things like capital investments:

The commission "measured the effects of vacancy decontrol on the initiation of capital improvements. The purpose of the study was to investigate the validity of the contention that such investments had increased as a result of vacancy decontrol.

"The study found that the number of buildings renovated in each borough has decreased to a level of half that of 1969. The expenditures on such renovations, although increasing steadily prior to vacancy decontrol, decreased to a level of approximately \$1 million per month lower than during rent control.

"The study found that appliance sales had decreased in the boroughs of Brooklyn and the Bronx but had increased somewhat in Queens and Manhattan, suggesting that the sale of new appliances is limited to those areas where the owner can enter the luxury housing market.

"The commission examined various data that may be indicators of the rate of abandonment of rental structures in New York City. The continuing increase of interim actions — that is, tax foreclosure actions — and the increased proportion of uncollected tax levies both signify that there has been no decrease in the rate of abandonment since vacancy decontrol.

"Further, the steep and increasing rates of abandonment in other cities across the country that do not have rent controls would make any claim correlating abandonment to rent controls a highly tenuous one."

I'll read just briefly testimony of the commissioner of the state's housing department at that time.

"Two other results of vacancy decontrol have seriously impacted tenants: an increase in the motivation to harass tenants and the elimination of the protection previously afforded tenants under rent control.

"There has been a serious increase in the incidence of harassment since the inception of vacancy decontrol. While the majority of owners are responsible and do not engage in attempts to secure vacancies by deliberately reducing services or engaging in other prohibited acts, it is a fact that since the implementation of vacancy decontrol, the incidence of harassment has more than doubled.

"In 1970 our enforcement office took in 533 harassment complaints. In 1971 the figure jumped to 1,132, three quarters of which came during the months immediately following the enactment of vacancy decontrol. The same accelerated pace continued during 1972 and 1973.

"We have thus found it necessary to step up our campaign against harassment, stiffening fines and referring appropriate cases to law enforcement authorities for prosecution."

I think the commissioner's statements at the time understated the problem with harassment, quite frankly. What often happens in a vacancy decontrol situation is that owners who are concerned about the stiff penalties the state might impose in the event that they get caught harassing tenants will attempt to move the tenants out by

exercising every claim of legal right they can under existing leases. If the tenant installs an air conditioner and the lease prohibits it, instead of trying to work it out informally, there'll be an immediate action for eviction. Sometimes spurious claims will be generated.

My partner, who was around at the time representing low-income tenants in New York City, recalls defending an elderly couple who were accused of throwing wild parties all hours of the night. He also recalls a situation where a tenant was informed that some work would be done on her apartment and that she should be advised that the owner could not be responsible for any damage that would occur. When the tenant arrived in her apartment about a week later, she looked out, not a window in her kitchen, but out the back wall of her kitchen and could see her yard because the whole wall had been taken down.

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You have both the overt kind of harassment that occurred — in terms of hiring thugs to move in next door, cutting off essential services — and you have what I would describe as white-glove harassment, which is somewhat more subtle, pressuring tenants to constantly come into the city's housing court. In New York 85% of tenants cannot afford attorneys. They're unrepresented. They run the risk of a technical default. They have problems with their employment situation because they can't take time off to go to court. More often than not, they're put in an untenable situation of having to make some kind of deal with the landlord and move out quietly. That's the kind of harassment I would be most concerned about.

One thing I was very impressed with is that I think Toronto has a very enlightened and effective code enforcement situation. New York links rent increases to code enforcement for a very, very small sector of the housing stock. It's the older rent-controlled stock, only 71,000 units in a universe of over 1,000,000, that is under rent stabilization. In that stock, the linking of rent increases to code enforcement has been very effective, but due to budgetary cutbacks and a change in the political leadership of the city, we don't have as many inspectors as we used to have and the laws have been weakened by allowing owners to self-certify corrections. Often it's done fraudulently.

But for the vast bulk of the housing stock, where we don't have a link between rent increases and proper repairs and maintenance, the state of New York is frankly in a disastrous situation. It's in a state of meltdown. We have over 3,000,000 outstanding housing code violations of record. The system simply doesn't work except for the most extreme kind of situations where someone is deprived of heat or hot water or there are cascading water leaks or something like that. Linking code enforcement with rent increases is probably one of the most effective, low-cost mechanisms one can use to improve the housing stock.

The other thing I wanted to mention is that New York has also had experience with the idea of rent registration. Until 1983, the owners of the rent-controlled and rent-stabilized stock were not obligated to register their apartments. It created a tremendous number of problems

in terms of deciding disputes between owners and tenants as to what the appropriate rent was.

The investment the state's housing department had to make in adjudicating these disputes had become ridiculously high, and cases were drawn out, took many years to resolve, so a rent registration system was established in 1983. It's proven to be very effective and there is no opposition in the state at this point from owners or tenants to that system of registration. I am not sure why anyone would want to get rid of a rent registration program.

That's about the extent of my testimony. I'd be happy to answer questions. I am sure you all have questions or impressions about what's happened in New York. I was with the New York City rent guidelines board for seven years, where I oversaw a research staff. We looked into the economics of rental housing. I heard testimony from literally thousands of tenants and owners about conditions and about many of the same issues you're facing here today.

I think that more often than not, rent regulation is mischaracterized. It's not a perfect system. It's certainly not an elegant way of preserving the ability of tenants to have affordable and decent housing. But it's proven very effective in the city, where we do have a shortage and where, in the absence of that system, many middle-class and low-income people would be forced to leave the city.

The Chair: Mr Tessler, does that conclude your —

Mr Tessler: If there aren't any questions.

The Chair: There are, I am sure. Mr Colle, very briefly; we have about a brief question per caucus.

Mr Colle: Thank you very much for coming from New York City, Mr Collins. In brief, this experiment of decontrol was tried in the early 1970s in New York and you're basically telling us it was a disaster.

Mr Collins: I would characterize it as a disaster. We can get into hyperbole. It certainly did not work. It did not create new construction, it did not stem abandonment. There was a rising concern about harassment, and the evidence of that was mounting.

Mr Marchese: Thank you, Mr Collins, and thank the federation for their advocacy. You heard the Fair Rental Policy Organization of Ontario just before they left, or maybe you didn't.

Mr Collins: I saw the end.

Mr Marchese: This is what they say: There is no supply coming on stream, despite building costs much lower than in the late 1980s. There is massive deficit in capital expenditures in existing buildings because of The Rent Control Act. Restrictions have prevented ongoing renovation. The ultimate solution to these problems is dependent on the long-term elimination of rent controls. Your response?

Mr Collins: I would categorically disagree with that. One of the things I am really concerned about in the New York situation is that as a result of a hasty and ill-advised deal made in Albany in the 11th hour over our rent control laws, rents are going to be allowed to go up 20% upon vacancy. It's not full vacancy decontrol, but it is a very large hike.

The consequence will be that more rent-controlled apartments are going to end up in the high-rent sector.

That is exactly the sector that developers look to to decide whether to construct new units. If you have a massive rise of rents, you have a larger number of apartments in that high-rent sector and you're going to get somewhat of an oversupply in that group. While you may have a severe shortage overall, you are going to have a lot more housing available in the luxury end of the stock. If developers see that, they're not going to build anything, so vacancy deregulation could easily lead to a decline in new construction.

In fact, it's interesting. The state of New Jersey adopted a number of rent control ordinances in the early 1970s and about half the municipalities did not adopt rent regulation. In those that did adopt rent regulation, new construction fell by 52%. That was often pointed to by the critics of rent regulation as evidence that rent regulation depresses new construction. But in the uncontrolled municipalities, which is over more than half the state, new construction fell by 88% by the mid-1970s.

There are many factors which overwhelm the effects of rent regulation on the issue of new construction, but there is no evidence that new construction and new investment in housing is depressed by the presence of rent regulation. The owner organizations in the cities have spent millions of dollars in studies and campaign contributions in New York state, trying to discredit rent regulations. One of the people they hired was Anthony Downs, who is with the Urban Land Institute, a fairly respected economist who is basically a critic of rent regulations, but one of his findings, to paraphrase him, is that temperate rent controls in the United States have not been shown to significantly impact on construction rates.

With regard to investment in housing, clearly if you're linking rent increases to improvements and you then allow owners to increase rents dramatically in the absence of making any investment in the apartments, that's going to be a powerful disincentive to making investments.

Mr Wettlaufer: Mr Collins, I'd like to address something you said in your presentation, and that is that there are 3,000 code violations in New York.

Mr Collins: Three million outstanding.

Mr Wettlaufer: Three million? Isn't that interesting. The legislation we are proposing here addresses that, because right now the average return on equity for a landlord in the province of Ontario is between 2% and 4%. Eighty per cent of the buildings have six suites or less. These are owned by small landlords who simply can't afford to carry out repairs or carry out maintenance when they're getting 2% to 4%. What we have done — and keep in mind that the necessary repairs in the buildings in Ontario are estimated to be \$10 billion, \$1 billion of which are on things such as balconies and garages only.

Safety is very important, and it's being addressed by this legislation. If I were a tenant I wouldn't want to live in a building where the balcony is unsafe. I wouldn't want to walk out on to a balcony that could fall out below me.

Mr Collins: Is that a question?

Mr Wettlaufer: No, it wasn't a question.

The Chair: Whether it's a question or not, we're out of time. I think we have to vote in the House, so the meeting is recessed.

Thank you very much, Mr Collins, Mr Tessler and Ms Morrison for coming this morning.

The committee recessed from 1159 to 1530.

TORONTO REFUGEE AFFAIRS COUNCIL

The Chair: Our first delegation this afternoon is the Toronto Refugee Affairs Council. Present with us this afternoon are Consuelo Rubio, Abdul Rahimi and Katchba Rahimi. Welcome to the committee.

Ms Consuelo Rubio: I will not read the submission our group has already prepared. I'll just recap some of the most salient points of our presentation. The Toronto Refugee Affairs Council is a group of organizations that work with refugees and newcomers to Canada. Altogether we serve a very large group of both newcomers and refugees. We're very concerned about the amendments to the Human Rights Code contained in section 200 of Bill 96, as we feel they will have a detrimental impact on the ability of newcomers to obtain decent housing.

As I said, I'm not going to read through my presentation, but I'll just give you some idea of the difficulties that newcomers have when they come to Canada. I will relate a bit of personal experience I had with a refugee claimant who had come to Canada with a young daughter. She lived in this cramped room full of cockroaches with her daughter who was getting sick quite a lot. As she was walking one day she saw this apartment building which looked quite nice. She had a friend who spoke some English call and find out about the rent and what kind of apartment they had. Sure enough, there was a one-bedroom apartment available.

When this woman went to the apartment to actually see it, the superintendent asked her whether she was on welfare — and she was — and told her there were no apartments available. When this woman came to see me at my office, she asked me to call and find out whether the apartment was really available or not. I called, pretending I was a tenant. I speak English fairly well. I was asked whether I was employed. I said yes, and immediately that superintendent told me that there were both one-bedroom and two-bedroom apartments available in the building.

When landlords are allowed to do this, even when the legislation says they cannot do it, you can imagine what it's going to be like when that protection that now exists is removed. I don't want to be patronizing and say that these communities are vulnerable communities, because the fact is that they survive and they do very well against tremendous odds. But you have to remember many of these people — two of the indicators or two of the things that many of the refugee claimants who come to Canada need to succeed are good housing and good jobs. I've seen survivors of torture thrive once they become stabilized. Again, it's only when they have solid housing for themselves and their families that they're able to finally set their roots in Canada and contribute to this society.

I brought with me two people who have gone through the experience. They can tell you at first hand. Mr and

Mrs Rahimi, who are refugees from Afghanistan, have been in Canada now for two and a half years. Mr Rahimi would like to talk to you a little bit about what it was like to find housing for himself and his family.

Mr Abdul Rahimi: My name is Rahimi. I came to Canada in 1994 with my wife. When we first came to Canada we hoped that, because in our country there was fighting and a very, very bad situation, our lives would change. In our country we had a good life, but because of the fighting and war, we couldn't stay longer. We had many, many problems.

When we first came to Canada we had problems with the building owner, the landlord. We wanted to rent an apartment to live there. He asked us, "You receive welfare?" We said yes, and he said: "Welfare isn't too much money. We cannot give you the apartment." We know somebody who has lived in Canada a long time and has a business in Canada. He is a Canadian citizen. He said: "I support these two people. I'll sign for you what you want. I work. I have money. Every month I'll give you your money. They do not have any place to live. Give an apartment to these people."

This is a long history because several times, more than one month, we went to the office and were turned down. One time we went to the office, he said, "I'll give it to you." Then after one week we went again and then we asked about renting but finally, after more than one month, he said, "We cannot give you an apartment." For more than two months we lived with a friend I know from Afghanistan. He has two children. He lives with his wife; that's four people. We lived with this man for more than two months; that is six people in a one-bedroom apartment. That's our experience, that the landlord make too much problems for us.

After that, somebody in charge in Canada helped us and found an apartment for us. This is a problem because we get money every month if I'm a receiver from welfare. If I get money, then I pay for rent. But I didn't understand why they didn't give me then apartment for rent. That was our problem, a very big problem.

1540

Ms Rubio: Our point is that the money one gets, or how much money you get in income one way or another every month, is not an indicator of whether or not you're going to be honest and you're going to pay. I think the presumption that someone who has low income is not paying is totally incorrect. In fact, in our experience, most people are paying half of their income or so in rent, not 30%, and they still manage to hang on to the apartment and pay.

If you have any questions, I would be happy to answer them now.

Mr Marchese: I thank you all for coming. It's important to get the personal testimony from individuals who are affected by the various policies of government. One of the things in your brief, "Finding stable accommodation which is affordable, accessible to required services and the appropriate size, is widely considered to be essential to the successful settlement of refugee claimants."

That's the case with a lot of people too, of course, who are here, who are on low income, because 33% of all

tenants, and there are about 3.3 million, earn less than \$22,000. These people are looking for affordable, decent, accessible housing. It's a point I make in this regard because this government says they are not going to build any more. The private sector is not going to be building affordable housing, accessible and decent housing for people of low income, because there's no money to be made by them. So we have a problem, and refugees are going to have a problem, it seems to me.

Ms Rubio: I work at the Centre for Spanish Speaking People, and just to give you an idea of the incomes that our clients, the users of our services have, most people who are working and use our centre earn between \$10,000 and \$18,000 a year and still they are paying rent. They're living somewhere. They're not defaulting on their rents. They manage to have access to some good apartment, or whatever, and they're keeping it. Again, the money you have is not an indicator of the kind of person that you are and whether or not you're going to default on your rent.

Mr Marchese: The other question has to do, and of course you touched on this, with section 200 and the use of income information. We know it's practised by some people, but the point you make is that this change would universalize this practice and, in effect, legitimize it. You're concerned that people are going to be discriminated against as a result of this, more so than is the case at the moment.

Ms Rubio: I think we're in good company in terms of not being happy with this particular amendment. I understand the Human Rights Commissioner, Mr Norton, has said the same thing to you, that he's very concerned about the impact that removing this protection would have on communities that traditionally have been considered at a disadvantage in terms of having access to good housing or whatever.

Mr Marchese: You probably would agree with the statement that human rights, for people who are on low income, refugees, should somehow be put ahead of the rights of landlords. Is that a fair way to put it, or should we be worried about the human rights of individuals as it relates to housing?

Ms Rubio: I guess what we should be looking at is who is most at a disadvantage: a landlord who has been in Canada for a period of time who owns a business and who is more or less established — he has costs etc, but he has certain recourses — or someone who is new with no money in his or her pocket and who has come to Canada perhaps after going through adventures, for lack of a better word, or who has escaped torture or war? Just look at it that way: Who is in a better position to handle this? I think that would be giving the landlords an advantage that I really don't think they should have. It's a weapon that will be used against people.

Mrs Julia Munro (Durham-York): I want to thank you for coming here and particularly when you are able to bring to our discussion the personal experiences of individuals.

One of the issues that we're faced with as legislators is always the question of trying to find a balance. You yourself talked about the issue of a landlord and what is available to him and what you perceive as the need for

that playing field. One of the things that has been brought out in much of the discussion was the fact that we have to have people who see an incentive, that is, a reason to rent and therefore a reason to build more rental units. At the same time, one of our presenters this morning talked about the need for a landlord, in making a decision, to have sort of a basket of information — I think that was the term used — in making a decision based on whether or not this individual has a credit rating, a job, whatever it is, the criteria.

Ms Rubio: If I may interject, the problem with credit rating, for instance, is that immigrants and refugees who come to Canada don't have any credit rating in Canada.

Mrs Munro: That is precisely my point.

Ms Rubio: So that is used against them too. Whether you've been great in your country, who cares? Right?

Mrs Munro: Exactly. I guess that's really the point I was going to come to, in the sense that if you remove those other things, for reasons I completely understand, what do you see as a way of offering some kind of legitimacy, credibility, whatever? Are we talking about —

Ms Rubio: If I can sort of wear a different hat and talk to you about my experience as a landlady, I have a small house and I rented it out a number of years as I was paying it. I could never tell who was going to be good or who was going to be bad. Okay? I once rented my upstairs apartment against my best judgement to a couple of actors and I figured, "Oh, actors, unemployed, no money." They were delightful tenants. They always paid their rent on time etc. I again rented the apartment upstairs once to a couple who were both employed. The apartment was a mess. I was always after them for their rent. You can never tell who's going to be good and who's going to be bad.

When you talk about having a basket of choices, I understand what you're trying to say, but I don't think that this particular fruit should be in the basket of choices for landlords to pick on. I really think it's going to be used against people who really need housing and who would make perhaps good tenants. The proof of the pudding is in the tasting. You never know who's going to be good and who's going to be bad. Using this particular rent geared to income to select tenants I don't think is the right way.

Mr Tom Froese (St Catharines-Brock): Thanks for coming. I can certainly appreciate exactly what you're saying because I've been involved through our church and personally helping immigrants coming to and finding housing, so I understand the situation. I was also in banking, and you're absolutely right. If you go strictly on the ratios of what has been proposed, the bill's not proposing that. I think we should be clear that the bill does not say the income ratio is the rent geared to income. It's just that people have been bringing studies forward saying things like: "This is what you're going to do. This is going to be a problem."

But how do you protect the landlords' interests in that they should have a right to have access to information? Credit ratings, we've got that now. That's not in the bill. I think what you're saying is, you're concerned about the income, that if they're going to use income on that basis alone and turf people out, that's a problem, and I under-

stand that. But what would you suggest an alternative might be? It's the landlords who own the building. You own the building, you have a right to that building. So how do you balance that off by saying you —

The Chair: That's a long 30 seconds, Mr Froese.

Mr Froese: Yes, I know.

Ms Rubio: Again talking as a landlady, I felt I got a lot out of the deal because at the end I owned the building and they didn't. I think landlords have tremendous economic advantage at the end. I didn't lose any money. I had tenants for years, so I feel that there is enough protections for landlords as it is, that they don't need this extra one.

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Mr Colle: I want to thank you, Ms Rubio, for coming here. I also want to congratulate the Rahimis. I want to thank you for showing the courage to come here. As you know, this is an intimidating process, coming to this Legislature and coming to the committee, being new to Canada. It's very difficult for people who have lived here all their lives and so forth, fluent in English etc, to come here. You've shown a lot of courage, and I think you're doing the right thing by being here. I certainly don't want to let that go. I know it's not easy to be here, so thank you for going out of your way to speak on a very important issue. I don't want to make light of that.

I guess the essence of your issue is that you can't really tell a book by its cover, that just because a person is perhaps a new immigrant or a refugee or maybe doesn't seem to have a great job, the critical thing is not to rule that person out as being a good tenant. I guess the question is, how are people in those conditions who are new, maybe don't have a good job, have language problems, able to make ends meet and pay the rent as they do in almost — as it says here, it's amazing the number of newcomers who are able to pay these rents. What's the secret?

Ms Rubio: Are you asking me?

Mr Colle: Yes, or the Rahimis, whatever. How is it possible to cope and how do they do such a good job at basically making ends meet?

Ms Rubio: Mr Colle, I don't know what your background is, but for those of us who come from immigrant backgrounds, I think we come here prepared to make a lot of sacrifices. We don't want anything free. We work for whatever we've got. I don't think people going to an apartment are hoping: "Ha, I'll get it. I'm not going to pay the rent and I'll keep the money." I mean, they're honest. They do whatever they can. People do it; I don't know how.

The Chair: Our time has expired, Ms Rubio. You've given the committee members lots of time to ask questions and we thank you and the Rahimis for coming to the committee and expressing your views.

GREATER TORONTO HOME BUILDERS' ASSOCIATION

The Chair: The next delegation is the Greater Toronto Home Builders' Association, Shelley Libfeld, director, and Robin Bookbinder, member. Welcome to the committee.

Mr Sheldon Libfeld: Good afternoon, Mr Chairman and members of the committee. My name is Sheldon Libfeld and I'm here in my capacity as a member of the board of the Greater Toronto Home Builders' Association. Joining me today is Robin Bookbinder, who will also be making a few remarks on behalf of the GTHBA.

The GTHBA is the voice of the residential construction industry in the greater Toronto area and has been so since 1921. We represent the residential home builders, whether they build single detached homes, semis, town houses or apartments. We also represent infill and custom home builders, as well as professional renovators. Our membership includes suppliers, subcontractors and many service, professional and financial institutions associated with the industry. All told, our organization has more than 850 member companies. Last year, GTHBA members developed more than 20,000 new housing units, representing more than 55,000 person-years of employment.

While I'm a fairly large builder of both new homes and condominiums, my family is also directly responsible for over 750 rental apartments throughout the greater Toronto area.

In approaching today's presentation, I need to take you back approximately two years to one of the first decisions of the Harris government relating to non-profit housing. Not long after his appointment as Minister of Housing, Al Leach imposed a 30-day moratorium on non-profit housing construction, pending a final decision on the future of the program.

At that time, the GTHBA wrote to the minister expressing our full support of the decision. In the same letter, however, we expressed an important caveat: "While we recognize the importance of moving quickly, we would also emphasize that it is important to take rapid action on the necessary process of developing a housing supply policy for the province which will ensure that the housing needs of the province can be cost-effectively satisfied."

What we were essentially saying to the minister was that you can't just yank the non-profit programs without knowing what you're going to do to make sure that people have access to decent, affordable housing.

Rental accommodation is obviously a key component in the overall continuum of housing supply. On that basis, we are here today to say that we support Bill 96, and Robin will be speaking to some of the specifics in just a moment. Before I turn it over to Robin, however, I want to talk further about housing supply.

Housing economist Greg Lampert wrote an excellent report for the Ministry of Municipal Affairs and Housing which summarized several steps which the government could take to promote a healthy rental housing market in Ontario and the development of new rental housing. Changing the rental regulation system in Ontario was identified as a critical step.

In addition, the report referred to the need to reduce other costs of development, such as excessively high development charges, a streamlined building code, planning and development regulations, a reduction in excessive property taxes for rental housing, reduced CMHC insurance fees and a reduction in the GST applied to new rental housing.

These other issues are critical to re-establishing a healthy rental housing market and in fact a healthy housing market, period. Whether they affect the cost of building a new rental housing unit, a new condominium unit, a new town house or whatever the case may be, excessive development costs have an impact on all those who most need affordable housing.

The rental housing market does not operate in isolation from the rest of the housing market. Excessive development costs increase the cost of housing and put new housing units out of the reach of both renters and owners. This keeps people in the existing housing stock and dampens the supply of new housing. Expanding the stock of new housing, whether through rental or ownership development, has benefits that ripple through the whole economy.

On one of these issues, the development charges, the government has recently announced its intention of revising the legislation. Ontario currently has the highest level of development charges in Canada and, in fact, North America. While it is not perfectly clear what will happen under the new legislation, Ontario is not expected to lose its status as the highest-development-charge jurisdiction. Unfortunately, this is one rather important component of Lampert's recommendations which has not been followed.

As we said in our letter to Al Leach almost two years ago, we need a plan to ensure that the housing needs of all Ontarians are met. There are three tools available to the government to achieve this: They can subsidize construction, they can give people an income subsidy, or they can take steps to reduce the cost of development. Given the fiscal realities of the 1990s, it seems unlikely that there will be much in the way of construction subsidies or new income subsidies. Therefore, I would ask each of the committee members to keep in mind, in looking at the remainder of Lampert's recommendations, that we will all benefit from policies which help reduce the cost of development.

I will now turn our presentation over to Robin.

Mr Robin Bookbinder: My name is Robin Bookbinder and I am vice-president of Pinedale Properties. Our organization owns and manages residential and commercial properties, in addition to our involvement in land development and housing. Pinedale has 3,500 rental housing units in its portfolio.

I would like to start by commending the government for tackling this difficult issue. I think we are all aware that unfortunately rent controls have become a highly polarized issue. It's difficult to reach agreement as to what needs to be done to restore a healthy rental housing market in Ontario. Therefore, there is no one policy approach which will make everyone happy. It would be easy for the government to ignore this issue since it is guaranteed to cause grief for any government that attempts to tackle it.

Hopefully we can all agree that a healthy rental housing market where there is an ample and diverse supply of apartments is a worthwhile and achievable goal. It certainly exists in other jurisdictions within Canada and in the United States, where there continues to be new development in spite of much higher vacancy rates than exist in Ontario.

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To this end, I believe that Bill 96 is a step in the right direction. I would like to take a few moments to go over what it is that our organization views as positive in the bill and why we think that these elements of the bill must be maintained.

Firstly, allowing landlords to set a market rent when a unit becomes vacant is an excellent way to restore badly needed confidence and market forces in the rental housing market while at the same time providing comfort to sitting tenants who have become used to the extremely restrictive regulatory regime. This is critical for two reasons: (1) It will promote investment in the existing stock of housing, since it will allow landlords to see the potential for returns on their investment. (2) It sends the message to potential investors that, as with any other investment they might consider, rental housing will have both upside and downside market risk.

Under the current system, investors in the rental market have very strict limits on potential returns, but they still have all the downside risk potential that other competing investments have. It's easy to see how the current system has been a significant factor in driving investment away from the rental housing market.

Another positive aspect of the bill is the exemption of new rental housing units from rent controls. This sends the right message to potential investors in the rental housing market. A rental investment is a very long-term investment and a five-year exemption, which currently exists, is simply inadequate. Any mortgage provided by a financial institution for the investment will certainly exceed five years in amortization.

Repealing the Rental Housing Protection Act will promote improvements and repairs to the existing stock and better use of existing sites. At the same time, sitting tenants will be given the opportunity to purchase the unit, something many of them will likely take advantage of.

The proposal for a new dispute resolution system is an attempt to streamline the resolution of landlord and tenant disputes. It is a laudable goal, given some of the difficulties with the current system, but it remains to be seen whether the new system will be effective. The current lengthy process makes it difficult for landlords to properly run their businesses. This, in turn, impacts upon investor willingness to enter into the rental market. If these reforms are successful in helping disputes get resolved more quickly, this will again also improve the investment climate.

Finally, we are supportive of the changes the government is proposing in the area of capital repairs. Allowing a slightly higher cost pass-through and getting rid of bureaucratic rules, such as "the costs no longer borne" rule, will lead to increased capital improvements to the existing stock. In fact as a result of these changes, Pinedale Properties will be initiating significant capital investment in its properties. I am sure that many of my colleagues in the industry will be doing the same. This will lead to job creation and in some cases will improve the energy efficiency of our buildings.

One area where we would like to see changes to the bill is in the area of allowable capital repairs. The bill does not now allow a landlord and tenant to agree on an

above-guideline increase to allow for capital improvement which a tenant wants. I find it difficult to believe that it's in tenants' interests to have legislation which prevents them from negotiating improvements to their units which they may desire. This is also an impediment to the improvement of the existing stock and the corresponding job creation that goes along with capital improvement.

While we would have liked to have seen further movement towards a free-market approach through this bill, we understand that this is a highly controversial issue. Therefore, the Greater Toronto Home Builders' Association supports this bill as a much-needed step in the right direction and would like to see its key elements preserved.

In closing, I would like to thank the committee members for their time and attention. Shelley and I would be happy to take any questions that you may have.

Mr Gilchrist: Thank you, gentlemen. I appreciate you coming before us here today. I'd like your comments on a couple of things. When we were elected, there was seven-year wait for public housing in this province. Many of the people who are coming before us, and I suspect will continue over the rest of these hearings, will suggest that the current bill and the status quo is somehow perfect. They ignore the fact that there was a seven-year wait. I'm proud to say it's down to four years now, but even that's unacceptable by any standard.

I guess I have a couple of questions to you. You mentioned in your presentation that the current bill has constrained you from doing repairs. Would you say that is something that has been province-wide and industry-wide, that in terms of creating new buildings and repairing existing ones, the current law has actually been a disincentive and as a result the quality of life for tenants has probably suffered?

Mr Bookbinder: I'll take that first question. I think definitely that is the case, Mr Gilchrist. There is no doubt that landlords have had very little incentive from a financial point of view, and lenders who are lending them money have very little incentive to lend them money to do very necessary repairs that are both in the landlords' and in the tenants' interests under the current regime. Only where you have some sort of possibility of achieving some return on that investment, and where we're not even necessarily talking about a full return, will you have any hope of doing the types of necessary repairs and creating the types of jobs in this industry that are important to both landlords and tenants.

Mr Gilchrist: Indeed in all of Metro last year there was a grand total of 37 apartment units built, and 20 the year before; 1,420 in all of Ontario and yet 120,000 more people moved here. How anyone could suggest that the current law is working in protecting the interests of tenants is utterly astounding.

Much has been said this morning asking about income checks and things like that. I think a lot of people are confusing the issue of public housing and those who require that sort of assistance from the government and the reality in the free market. In fact, let me just go on this tangent. The Minister of Community and Social Services just last week announced that one of the changes she intends to make in government assistance, the social

assistance program, is to pay the rental portion directly to landlords. Would you believe that will actually increase the incentive for landlords to rent to those people on government assistance, given that you now have absolute surety of being paid?

Mr Bookbinder: I'm the technical guy so I'll answer the question. I think yes. I know that you've spent a lot of time today, and I've heard even on the radio that a lot of the issues have been raised around this whole question of the income questions that landlords ask. I don't particularly want to discuss that issue, although I will, but generally I feel that it's important that landlords get tenants that they're comfortable with, and that tenants have landlords — a you know, a landlord's interest is to rent suites. That's what we're in the business for, to rent suites, and not renting suites is not a satisfactory situation for us, so we want to have good tenants in our buildings.

The question that you raised, Mr Gilchrist, of paying the subsidy directly, obviously that would have a major influence on a landlord getting that comfort level that at least the rent is paid. We don't know about the quality of the tenant in terms of whether the tenant will tear up a suite or not — that will be judged on other situations in terms of the quality of the people — but, yes, it would sort of move that issue away in many respects from the type of debate you're having today.

Mr Colle: Thank you for coming, both of you, today. The question I have is, given that one of the first things this government did was basically say it was getting out of the housing business, and given that one of the first things this minister said was that rent control has got to go, how come this government has not been able to encourage people like yourselves to build anything in the rental area when they gave very clear signals they weren't going to do it themselves?

Mr Libfeld: The rental rates and the ability to have confidence in a government has been hurt drastically for many people in the industry. We're not sure what's going to happen next week or the week after or a subsequent government. I can say for myself that we put in major capital improvements under the Liberal government's policies of allowing you to recover the capital costs in the buildings, and the second the NDP government came in, although the money was spent, it was paid for, we could not recover a dime. It's very important that we have assurances that we can have confidence that the policies will continue and not be yanked from underneath us.

Mr Colle: The other question I have is in terms of looking at supplying rental accommodation. Given that for two years this government has done whatever they've done and you haven't responded in terms of building rental accommodation, given that they pass this act, which obviously they can do because they've got the majority, let's say there are other market factors that change — interest rates go up, unemployment goes up, other factors — are you going to be able to build housing if those factors change?

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Mr Libfeld: Yes, I think we still will —

Mr Colle: So if interest rates go up —

Mr Libfeld: — because the commitment of the financing and the decision to make the project go is made

on the day you decide to go ahead with the project. It's not made when interest rates are changing. If I go out and do a building today, I'm committing today for that financial rate and building that project based upon those costs. If costs come down, if we can have some of these policies in the Lampert report come forward, and we can have the costs reduced and it makes it more feasible to go ahead with the projects, then for sure we will go ahead with projects.

Mr Marchese: I have a few comments and then some time for questions, I hope.

The Chair: Be careful, Mr Marchese.

Mr Marchese: I realize, but we've got to divide the time equally, right?

Mr Colle: Yes, let's have the time divided equally between the three parties.

Mr Marchese: Otherwise it's a problem.

The Chair: I'm always equal with all three parties, Mr Colle.

Mr Marchese: Just a few quick statements. I disagree with most of what you have presented here, of course, but there's something I respect you for and that's a comment you made on the first page, which says, "What we were essentially saying to the minister was that you can't just yank the non-profit program without knowing what you're going to do to make sure that people have access to decent, affordable housing." I respect that because you communicate through that that you have concerns about the availability of housing for people who obviously need housing.

There is a problem, however, in terms of what you do then to create it, and you referred to the Lampert study, which I often refer to as well. I disagree with some of this stuff, but even if we did all of this stuff, it's going to take a long time to get to it because that \$3,000 gap that Mr Lampert speaks of is going to be difficult to get to. You would agree with that, probably.

Mr Libfeld: I'd have to see the number but —

Mr Marchese: No, quickly.

Mr Libfeld: The report was done a while ago; interest rates have reduced; some of the policies have come into effect. It may come a lot more quickly than we ever anticipated.

Mr Marchese: I'm not sure that's the case. I'll read it to you. He says, "Reduce development charges" — they've only reduced that by 10% or so, so that's not going to be very helpful to you guys — "equalize property taxes" — municipalities are not going to do that, that's \$1,200, because there's a whole lot of politics in equalizing taxes; you probably agree with that — "halve the GST payable" — I'm not sure the federal Liberals are going to do that — "streamline regulations on building...halve the CMHC mortgage insurance fee" — it's \$110 — "and lower administration due to the reform of rent regulations" — that's \$200. Even if we ever got to this, in spite of the fact that I disagree with some of this stuff, it's going to be a long time before we're going to see any building of affordable housing.

Mr Bookbinder: Mr Marchese, can I answer the question?

Mr Marchese: This is what I want you to react to, though, this is my question —

The Chair: Very quickly.

Mr Marchese: There's a fellow who came from New York who said this: "They concede decontrol was a disaster when New York tried it from 1971 to 1974. A commission set up by the Republican Governor Nelson Rockefeller recommended that vacancy decontrol be scrapped. It said that decontrolled apartments saw rent increases of 52% over a three-year period while landlords' operating costs went up just 8%. Complaints of landlord harassment doubled" between that period. "Capital improvements actually decreased. Housing construction is driven by the economy and tenant income, not rent controls." What is your response to that?

Mr Bookbinder: I'll respond to that but I also want to respond to the other point. I don't know about Nelson Rockefeller in 1972. I know that there are a lot of jurisdictions in Canada and the United States, British Columbia being one example, that have gone to a system that is much less restrictive than the system that was put in by the NDP and more along the lines of the system that's being proposed here, where the system works a lot better than it does now in terms of construction and development.

But I also want to raise the point that you made before about taking a look at specific numbers and saying whether this is going to be a short time or a long time. I think you have to look at the broader picture than that. The points you raise about costs, yes, this is what's raised in our submission as well, that cost factors are important. But you have to create the environment. You have to start first principles. You have to create the environment that builders will even look at building apartment buildings as compared to building condominiums or commercial buildings or anything else. If you don't start with creating that environment, you won't even get to second base, without going to first base.

I think this is mainly, the way I see it anyway, an attempt to get to first base so that landlords can look at restarting development.

The Chair: Mr Libfeld, Mr Bookbinder, thank you very much for coming this afternoon and making your presentation to us.

JESSIE'S CENTRE FOR TEENAGERS

The Chair: The next delegation is Jessie's Centre for Teenagers, Maureen Callaghan. It looks like she has a bunch of beautiful babies with her too.

Mr Wettlaufer: On a point of order: It is so cold in here those babies are freezing. That's probably why they're crying.

The Chair: I'll tell you, my first granddaughter was born two months ago. I spent Father's Day with her and I'm just as helpless today as I was then. But I wish you all luck and I welcome you to make your presentation.

Whoever is speaking, if you could identify yourself, please.

Ms Maureen Callaghan: I'll start. My name is Maureen Callaghan. I'm actually on maternity leave from Jessie's Centre for Teenagers, but I have worked there since 1986 and I've been a housing counsellor there for a long time. I wanted to be back to organize and work on this type of presentation because I feel I have had a lot of experience in this area and feel deeply about this issue.

Jessie's works with teenage parents. We work with women who are 18 years of age and younger. They are either pregnant or they have children and obviously housing is of great concern. We have many young parents here with us today who will speak directly to that, so what I would like to just highlight at this point is to make the point that we've got many concerns about Bill 96 and how it will affect young parents in a way that we believe will be very detrimental.

The proposal that rent controls would come off apartments once they're being re-rented is of concern to us because the teens that we're working with are often first-time renters. That means they would be affected by that rule and would be faced with paying a higher rent than perhaps couples that have higher incomes and more stability and have lived in a place for much longer periods of time.

The other point we want to make is that for young parents who are renting for the first time, they obviously aren't able to come up with a landlord reference. Often young people don't have a credit rating, but that doesn't mean they should be told that they should go out and secure credit as a way of coming up with their credit worthiness. They often don't have access to guarantors, so we're very concerned about this particular group and how they will fare out there in the market when they have to find housing. Obviously many of them have had to move out of the family home, for any number of reasons, once they become pregnant or have had their babies. We're trying to work with them to ensure that they can have access to the most affordable and the most appropriate housing that's available.

If the income-to-rent ratio of 30% was used for young parents on social assistance, then we would be expecting them to find an apartment at \$191 a month if their basic needs were \$446. Most of us would understandably know that you could not find an apartment for that rate here in Metro Toronto.

It's been our experience that teen parents are responsible. They are out there in the community paying their rent, trying to budget and to survive each month. I think most of us would recognize that this is a challenge, but they have to have a roof over their heads. So it has been our experience that they are responsible and pay their rent in full and on time.

1620

The other thing is, if income criteria were to be used, the effect often is that the most affordable apartments in this city are being denied to young parents, and because they still have to find a place to live, they then have to go out and find a more expensive apartment.

So if this committee or if this government was putting this issue forward because it was going to be a cost-saving measure to this government, then we might be able to consider why it's being put forward. But in fact it has been our experience that the best apartments, those one-bedrooms for \$500 or \$550, are being denied to young people because of income criteria, and then they go out and say: "I've got to get that rooming house for \$450 and it's a deplorable situation. If I could have just had that one-bedroom apartment for \$50 more," or "I've got to get a much worse place for \$600."

We're concerned that young people have to have access to the most affordable apartments, and the most appropriate, and that Bill 96 would be detrimental to young people. I'd like to turn it over so that there's time so that you can hear from the teens themselves. Sandra, maybe you would start.

Ms Sandra Fortin: My name is Sandra Fortin. I'm 20 years old and I have a two-year-old daughter. I'm a single parent, full-time college student, and I've had a few apartments since I moved out on my own when I was 17.

It was very difficult at first: I got a lot of landlords who didn't want to rent, either because of my age or because they were worried about my income. A lot of them wanted cosigners; I got turned down many times. I was lucky I did find one landlord who was willing to trust me. I took care of that place very well and always paid my rent on time. I'm a clean, quiet tenant. I've never had any problems with any of my apartments.

It's been hard, but I have made it through. I just think if this goes through, it's going to make it very difficult for myself and for anybody else in the future. When it comes time for me to decide that I want a bigger apartment or just something different or my lease expires and my landlord would prefer me to go somewhere else, I'll be stuck doing I don't know what. Where am I going to go? What am I going to do? I have a daughter. I don't want to lower my standards to a one-bedroom or even go down to a rooming house because I don't think that's an appropriate environment to have your children in. I would much rather be able to afford my apartment. I get by and I manage and, like I said, my rent is on time.

Ms Michelle Lightfoot: My name is Michelle Lightfoot. I have a 17-month-old daughter. I haven't had the experience of living on my own yet. I still live with my parents. I'm a full-time student as well, finishing my OACs, and I intend to go to university.

If this bill goes through, I'm really worried about having to look for a place where I'm going to need cosigners. I want to be an independent parent with my own family and not having to rely on my parents. I want to be able to go into the world, having my own family, like my parents did, and not having to depend on other people to be there for me.

I'm raising my daughter. I'm a mature young lady. I'm taking on the responsibilities and I want to go out and be able to live on my own with the choices of not having restrictions put on me. We should be able to live in a clean environment, not something that's going to be endangering our children. I want the best for her and I don't want to have this bill against me because it will just make it more difficult than it already is.

Ms Martina Aponte: I'm Martina Aponte and this is my daughter. She's six weeks old.

I just moved out on my own last September. My sister and I live together. It took us about three months to find a place and when we did find a place, we had to settle on a bachelor. So there was her, her daughter and me, pregnant, living in that place that had roaches, crackheads in the stairwells, people peeing in the stairwells. It wasn't a great environment; I didn't want to raise my daughter there. So I found a place quickly only because my

boyfriend had a friend who moved out and was willing to let us stay at his place for a while.

It was hard for us to find a place, and if you guys do this bill, it's going to make it worse. It was even hard for us to come up with first and last month's rent. I want the best for my daughter, and I go to school full time. I made the honour roll and I plan on finishing my school year next year. That's about it.

Ms Angel Robinson: Hello, my name is Angel Robinson. I have a one-and-a-half-year old daughter. I'm 20 years old. I go to school. I work occasionally at part-time jobs when I can find one and I'm also on government assistance.

Right now I'm living in a two-bedroom apartment paying \$657 plus hydro, so that's more than two thirds of my cheque, plus all my bills. I pay my rent on time. After that, I worry about my phone bill and my food and whatever else.

Trying to find places in Toronto right now is hard enough being a teen mother or a young mother on social assistance. A lot of times I've been turned away because of either my age or my race. In fact a lot of people think that I'm not mature enough to handle paying my rent on time. I've been told already, "You're going to be having wild parties, have guys coming in and out all the time, and your daughter's going to cry non-stop."

My daughter is very well mannered, usually, and I pay the rent on time. I'm not just waiting for my cheque every month, waiting by the mailbox. I'm looking for jobs. I'm going to school. I'm trying to do better for my daughter and for myself. By passing this bill, if I want to look for somewhere nicer — because where I live now is okay but it's not the best place. It's not something like I was raised in, not something I want my daughter to stay in. But trying to find somewhere nicer later on is going to be harder than it is now.

I do want to work so it's not just that I'm waiting for my cheque. I want to go to school. I'm plan to go to Seneca College next September and study law, but the way things are going, money problems and whatever else, it's already hard enough right now to be a young, single mother in this environment.

A lot of people already have turned us away. Many of us have been having trouble finding places, and we lower our standards just to afford a place. On welfare, you get \$511 for rent. You cannot tell me that you can find a place for \$511 for a one-bedroom apartment, at least that has no roaches or nothing wrong with it, things falling off, the ceiling leaking.

I pay \$657. I paid more at one time. Living in a house I paid \$700 plus utilities sometimes. So I had like \$200 left over for the month, but I did that because my daughter deserves the best and I'm willing to sacrifice my needs for my daughter. She has everything she needs, but again, being a single mother you cannot afford a place under \$500 and say that it's suitable, no matter what the circumstances and why you have to be there. You shouldn't have to.

The Chair: Ms Callaghan, did you have any further comments?

Ms Callaghan: Just that in our submission, on page 5 there is a budget that we tried to put together where we

listed the rent at \$575 because we thought that was still low but a bit more realistic in terms of what's available in Metro Toronto.

I think you've probably been thrown a lot of figures here since these hearings have started, and it can be quite shocking to try to think about how people on social assistance really survive each month. We wanted to just show those figures to let people know that it's difficult but people do manage and it's important that they try to have access to the best housing that's available out there.

There's one other point. I'd love to be able to say to these teens that their problems could be solved because they'll just get into Metro Housing or Cityhome or the other forms of non-profit housing. We know what the waiting lists are for those types of housing, particularly since the Metropolitan Toronto Housing Authority went to a chronological waiting list. It's a five-year waiting list at this point — previously, teens used to do fairly well on that point rating system — so they simply cannot expect in their teen years that they're going to access subsidized housing. They have got to rely on the market.

The Chair: Ms Callaghan, thank you for coming and bringing all the other speakers. We appreciate your remarks.

1630

ONTARIO COALITION OF SENIOR CITIZENS' ORGANIZATIONS

The Chair: The next deputation is the Ontario Coalition of Senior Citizens' Organizations, Bea Levis. Good afternoon.

Ms Bea Levis: It's really interesting for me to follow these young people. A part of our concerns are of course centred around seniors, but we're also very concerned about the problems that particularly low-income families and young people find when we're looking at the housing picture.

I'll just start with the brief we have presented. The Ontario Coalition of Senior Citizens' Organizations is an association of seniors' groups and social service organizations focusing on programs to benefit the senior citizens' community. We represent the concerns of over 500,000 senior citizens in more than 110 seniors' groups from across Ontario. We have submitted our views on rental and housing options for Ontario to previous provincial and municipal government committees. We believe Ontario needs to implement housing legislation that ensures the development and protection of safe, affordable and accessible housing in Ontario. The Tenant Protection Act, Bill 96, we believe discriminates against seniors, low-income families and young people when they look for affordable housing.

For seniors, aging in place is the preferred way to live their lives. The Ontario government is jeopardizing that intention by implementing the new Tenant Protection Act. Without the protections that were in the Landlord and Tenant Act, the Rent Control Act, the Residents' Rights Act and the Rental Housing Protection Act, it will make for higher rent increases, discrimination against low-income individuals and unfair and unreasonable evictions plus an increase in poor maintenance and repair.

The Tenant Protection Act makes it even more difficult than before for individuals on social assistance, seniors on limited incomes, the disabled and young people to afford suitable housing options. While the province is changing its mandate on cooperative and non-profit housing programs in Ontario, it's putting in jeopardy another housing option that thousands of vulnerable Ontarians rely upon each year. OCSCO believes that housing policies must have a larger vision and social purpose than the current trend among governments. Our government has a responsibility to maintain and develop a comprehensive housing strategy which fulfils the needs of all Ontario citizens.

The Tenant Protection Act removes many financial protections tenants had in the Rent Control Act. Once a tenant leaves, the landlord is allowed to charge whatever rent they want. A tenant has no legal right to challenge that increase. The one saviour they had in the past to challenge landlords who charged too-high rents was the rent registry. This currently is being disbanded. Essentially, then, the Tenant Protection Act will eliminate protection from arbitrarily high rent increases for all tenants who decide to move.

It is low- and moderate-income people such as many of our province's seniors who are unable to compete for the few rental units available when vacancy rates are low. The original intent of the Rent Control Act was to protect vulnerable tenants at the low-end rental market who can't afford arbitrary and high rent increases. This protection was especially important for seniors who live on fixed incomes and who often cannot afford huge increases in basic living expenses. Under the new legislation, as soon as a tenant needs or chooses to move, they will experience a rental market fraught with high rents regardless of the quality of the housing. Seniors on fixed incomes will be held hostage for fear that moving will leave them vulnerable to abuses by unscrupulous landlords. For those seniors who do move, we can expect more poverty, ill health and social isolation, since they will be forced to choose paying higher rents over food, medication and transportation.

Under the Tenant Protection Act, a landlord can negotiate with a tenant for a rent increase up to 4% higher than the annual guideline without a rent control hearing. The Tenant Protection Act also allows landlords to collect rent increases before they are approved by the new tribunal. OCSCO does not believe that vulnerable seniors will be able to discuss new rents with their landlord in a fair and equal manner. Landlords and tenants do not have equal power: people need housing and landlords have more than their fair share of tenants who need to rent. During the proposed "negotiation" process, low-income seniors will be easily outbid by other tenants who can afford a higher rent for a unit. For a senior on a fixed income, every dollar counts.

One of the most damaging aspects of the Tenant Protection Act is how it undermines certain guaranteed protections in the Human Rights Code. Section 200 of the Tenant Protection Act amends the Human Rights Code to allow landlords to refuse to rent to individuals based on income information. According to the Human Rights Code, it is illegal to discriminate against a potential

tenant based on income. However, in the Tenant Protection Act landlords can refuse to rent to members of this disadvantaged group by disqualifying them based on low incomes.

Section 200 permits landlords to use the minimum income criterion, which is a 30% rent-to-income ratio, to disqualify applicants with low incomes. Income discrimination is the most serious barrier facing low-income households in the search of adequate, safe and affordable housing, particularly since alternative affordable housing will not be available.

The new Tenant Protection Act will not persuade landlords to put money into building maintenance. There is no requirement in the new legislation that high rents will be attached to improved building maintenance. Even where the landlord and tenant negotiate a higher rent based on repairs and improved maintenance, this system may or may not result in new investment in the building. It may also result in the eviction of seniors who cannot afford higher rents.

I might just mention that one of the most common fears expressed by seniors, who phone our office continually, is this fear that they will be bullied by landlords who are trying to get them out by not putting money into maintenance, and/or that if they have spent money on maintenance they will be harried into moving out. It's all right to say, "Well, these are fears," and they certainly are fears, but we have found that many seniors are really frightened about the possibilities coming up on this score.

The Tenant Protection Act is proposing to take the Landlord and Tenant Act disputes mechanism out of the courts and have the issues settled by a quasi-judicial tribunal. Under any new system, it is essential that the decision-makers are knowledgeable and neutral in landlord and tenant issues. OCSCO believes that for this system to work, the tribunal's appointees and decision-makers should not be political appointments. OCSCO is concerned that the tribunal's powers to dismiss certain applications without a hearing is discriminatory. To demand that tenants pay a fee to the tribunal before they are given a hearing will prevent those who cannot afford to pay an opportunity to protect their rights.

1640

Changes to the Rental Housing Protection Act will mean that current rental housing may be lost through demolition to other uses or conversions to condominiums. These changes will result in an increase in unaffordable housing units. Low-income individuals and seniors who cannot afford to buy property will have even fewer housing options. Many seniors, we fear, will be forced out of their homes as provincial rental housing stock is depleted through demolition and conversion.

Tenants of care homes used to have security of tenure under the Landlord and Tenant Act, the Rent Control Act and the Rental Housing Protection Act, just as any other tenant in Ontario. OCSCO is very concerned that the Tenant Protection Act will result in arbitrary and unaffordable rent increases for new tenants in care homes and the loss of affordable housing for special needs tenants as a whole. Seniors and other adults with special-care needs will be devastated by the impacts of these changes. Under the Tenant Protection Act fewer care

homes will be covered by the legislation and tenants therefore will lack the benefit of basic tenant protections.

The Tenant Protection Act will also allow care home operators to transfer tenants to alternative facilities when the level of care needs change, subject to certain protections. The only acceptable tenant protection from arbitrarily being transferred to an alternative facility is the consent of the tenant. Otherwise, landlords will arbitrarily evict a tenant who no longer needs the level of care provided or if a tenant needs a level of care that the landlord is not able to provide. We support the position of the Advocacy Centre for the Elderly, who have expanded, in their submission to you, on the problem of care homes.

The government must acknowledge that income, housing availability and housing affordability are major determinants of people's health and choice of housing. Where there is a lack of affordable housing, low-income people are often forced to live in substandard housing since they don't have the purchasing power and cannot buy or rent units in the upper end of the housing market. The Landlord and Tenant Act, the Rent Control Act and the Rental Housing Protection Act exist to protect tenants and to provide diverse housing options for Ontario's citizens. Low- and moderate-income seniors are especially dependent on these protections. Therefore, OCSCO urges the province to seriously consider the social as well as the financial impact to Ontario's citizens before any amendments are made to the original statutes. We thank you for the opportunity to present our concerns and recommendations today.

Mr Colle: Thank you very much for coming. As you know, one of the really objectionable parts of this bill, among many others, is that it puts a cloud over the heads of all seniors. As you know, if a person moves out of their apartment, the landlord can basically reap the benefits and increase the rent to whatever he or she wants. Seniors especially are going to have this threat over their heads.

On top of that, the other threat is conversions. As you know, there are some very nice small apartments units up and down the Yonge Street corridor and Avenue Road. You may have a small apartment building on a beautiful lot near Yonge Street. There's going to be enormous pressure for that landlord to convert that to condominiums.

What kind of advice can you give this government in terms of removing these threats that this bill puts over the heads of seniors across Ontario and Metro especially?

Ms Lewis: All we can do is say that, by all means, the housing stock that exists somehow has to be preserved. I don't know if you can force landlords not to convert, but it seems to me that you have to make sure that if on the one hand affordable housing stock has been depleted, somehow or other you have to make up that lack in another way. This is why — although it's not the subject today — we're also very concerned about the government's intention to step out of social housing, because this is the one thing that has made such a tremendous difference to seniors in the province in the last 10 or 15 years. It has really made it possible to have a very enjoyable quality of life for seniors who otherwise would be completely isolated and unable to afford anything.

Mr Marchese: Ms Levis, I want to thank you for your untiring activism as it relates to your concerns about policies and how they affect seniors.

Two questions, one short and one long: First, you've obviously made a deputation before. How do you feel about the fact that the government didn't listen at all to some of the concerns you've raised earlier?

Ms Levis: All I can say is that we need to keep trying. We'll keep relaying to the government the concerns we get from the seniors who are in touch with us continually.

Mr Marchese: We had a Mr Collins, who was the executive director of the rent control in New York City in the late 1970s early 1980s. Here are some highlights.

He said vacancy "decontrol was a disaster when New York City tried it from 1971 to 1974. A commission set up by the Republican Governor Nelson Rockefeller recommended that vacancy decontrol be scraped. It said that decontrolled apartments saw rent increases of 52% over a three-year period while landlord's operating costs went up just 8%. Complaints of landlord harassment doubled between 1970 to 1971 when vacancy decontrol was brought in and capital improvements actually decreased."

That's what this fellow says, an expert in this field. What is your response to that? It relates very much to this bill, right?

Ms Levis: It certainly does relate to it. All I can do is repeat the concern, the real fear seniors have that they just don't know how they're going to manage. They honestly are really scared because they do fear, from the experiences of other places, that rents go up so high they don't know how they're going to manage.

Mr Gilchrist: Thank you very much, Ms Levis, for your presentation today. I'd just like to say, though, to Mr Marchese, it's my understanding we made three significant changes based on your last submission: the care home tenants give 30 days' notice if they want to terminate a tenancy and no requirement that the notice take effect at the end of a fixed term. Landlords will be required to provide tenants of care homes with a care home information package before entering into a tenancy agreement. We're provided for a five-day cooling off period if tenants in care homes change their minds, and the requirements for written care home tenancy agreements will continue under the proposed legislation.

All those things are based on your submission based on the new directions. I would thank you for your past visit and for your time here today.

Let me just say that rather than be a prophet of doom and gloom — we absolutely respect your views, but I'm here to tell you today that these fears are unfounded. For example, Mr Colle's supposition can't happen. The bill provides for guaranteed lifetime tenancy if any building is converted. If a senior is living in one of those buildings on Yonge Street and someone decides to convert it to a condominium, that senior never has to move. They are guaranteed by law that they can keep that.

In your submission, you suggest that landlords could arbitrarily evict a tenant. Not true. They would have to go to a tribunal and prove to that tribunal that there are alternative care facilities out there that better meet the needs of that person. The bottom line is, we are very

conscious of this. I don't think there's anyone more respected, in terms of their needs for housing, than seniors. I assure you that the government's goal will be to absolutely maintain all the protections that are there today.

The Vice-Chair (Mrs Julia Munro): We appreciate you being here today for us.

1650

ANDREW MADDEN

The Vice-Chair: I'd like to call on Andrew Madden. Good afternoon and welcome to the standing committee.

Mr Andrew Madden: I'm a little nervous now after Mr Gilchrist's last comment to the seniors group, but as it applies to seniors, I definitely agree.

My name is Andrew Madden. I'm President of Diral Development Corp. I'm educated in both law and planning and have approximately 20 years of experience in the real estate development business. I currently run a development consulting firm that specializes in land development and condominium conversions.

I'm here to address you today regarding section 52 of the proposed Tenant Protection Act, which deals with the conversion of rental properties and particularly the security of tenure for existing tenants. I requested to appear before you because of my experience under the current Rental Housing Protection Act and the Condominium Act.

I applaud your actions in removing the restrictions created by the Rental Housing Protection Act. In my business I've discovered that many municipalities feel the conversion of rental property to condominium provides a substantial opportunity to rejuvenate an aging housing stock. Landlords have been unable to obtain financing to do substantial renovations, particularly to units. However, by converting same to condominium, funds become available through the sale of units to improve rental stock without necessarily eliminating it from the market. In fact, what happens is that rental stock becomes affordable housing and tenants can purchase their current accommodation, renovated, at a monthly price that is often equal to or less than what they're currently paying in rent.

I recently successfully completed the conversion of a 143-unit townhouse complex in the Guildwood Village community in Scarborough. Because of that experience, I reviewed the legislation to see whether that type of project could continue. What I discovered is that what you've given on the one hand — the ability to convert — you've taken away on the other by granting lifetime security. Basically you've eliminated the economic opportunity for conversions to occur. What you have done is, rather than making conversions occur on an open dialogue basis, you've created an opportunity for unscrupulous landlords to take action to try and force tenants out. Hopefully this is not what the legislation intended.

Our success in Scarborough demonstrates that conversions can be done to the benefit of all parties. The conversion process must respect the tenants and it must understand their need to be informed and educated about conversions, home ownership and condominiums.

We began the process by meeting with each tenant individually, 143 tenants, to find out if they might be interested in owning their home and what improvements they'd like to see to their unit and their rental complex. We let them establish the priorities. By determining the level of interest in home ownership, the landlord got a clear picture of whether the conversion could be successful. After all, if the tenant wouldn't be interested in buying, why would the public be interested in that project?

With the successful approvals in hand for that conversion, we then gave the tenants a 90-day lead time to buy their unit before it was offered to the public. This gave the tenant the opportunity to discuss home ownership with their family, their lawyer and their banker and to negotiate methods for coming up with a down payment, which is usually the single biggest issue for tenants buying today.

In your proposed legislation, you've given the tenant a 72-hour right of first refusal. I truly believe this is inappropriate. You're asking them to make the biggest buying decision of their life without appropriate legal advice. You're making them incur a legal expense, by reviewing the agreement of purchase and sale with a lawyer, when they might not be ready or may not have the money. In all likelihood, they will make a decision hastily and without the proper advice.

My recommendation is that you eliminate the right of first refusal and instead give all tenants a 90-day right of first opportunity. In Scarborough, we even went so far as to offer the tenant the unit at a price below that offered to the public.

Scarborough also agreed with us that a two-year security of tenure was appropriate for this project. There was not one tenant who objected to the security-of-tenure time frame, and not one tenant objected to the conversion before the public meeting at Scarborough council. This demonstrates the importance of communication with tenants throughout the conversion process.

Instead of granting a reasonable security of tenure, you have given all tenants a lifetime security. The length of security of tenure is a key economic issue for the landlord in making his decision to convert. Our experience demonstrates that in converting rental stock the landlord is required to bring that unit up to like-new standard. The tenant and the public will not buy a rental product in an "as is" condition.

Granting life-time security also creates a conflict if the product is converted for the new homeowner. Under the Condominium Act, the new homeowners, once they own 50% of the units, form the board of directors and manage their property. This is something they generally take significant pride in. It allows them to control the expenses which form part of their monthly maintenance fees. They are very conscious of these expenses and want no surprises in the future.

With life-time security it could take years for the owners to gain control of the board. This causes a dilemma because they feel the tenants may not have the same sense of care towards common facilities and that they could be burdened with greater capital costs. Also, the landlord continues to incur capital expenses to keep

the property looking new for sales purposes. It creates a risk that the landlord could abandon the project if he's not successful, leaving both the homeowners and tenants at risk.

Finally, from a business perspective, to sell a home you must advertise. A full-page ad in the Toronto Star runs over \$25,000 per day. If you don't have enough units for sale, you can't economically promote your project and you can't be successful, and you can't have this happen if tenants have life-time security of tenure. You have no idea when they will be departing.

However, before I make my recommendations, I would like to point out that not all conversions are the same. They differ along economic lines. Units with higher rents make more sense to convert than those with lower rents. As a result, my recommendations on security of tenure differ based on the rental rates of the units and offer greater protection to those tenants who need it more; that is, those with lower rents who have less flexibility in relocating and less chance of buying a home.

Therefore, my recommendations are as follows:

For all units with rents in excess of \$1,000 per month, the security of tenure should be two years. This is more than ample under the circumstances, and our Scarborough project is a clear example. All of our tenants in that project, with the exception of eight, have either chosen to purchase or to relocate. When you pay more than \$1,000 per month in rent, you have sufficient flexibility in choice of where to rent, where to live, or the choice to buy.

However, with those units that rent for less than \$1,000 per month, I am proposing that you tie the length of future security with the past security of the tenant; in other words, the length of time that the tenant has lived there. If a tenant has been there five years, give them another five. If they have been there 25 years, give them another 25 years. If they've been there less than two, give them the minimum of two. In other words, it allows the conversion to reflect the makeup of the building. If the rents are low — the building may appeal, for example, to seniors — the historical tenancy will show they have generally been there a long time. Give them the future protection, but don't leave them open to the risk that everybody has life-time security and that a landlord may take inappropriate action.

Those are my changes that I would request with regard to section 52 on security of tenure.

As discussed earlier, I would also recommend that you delete the right of first refusal, as it is a burden, not a benefit. Make it a right of first opportunity, make the landlord offer the price to the tenant first before it goes to the public for 90 days, and make sure he doesn't offer it at a lower price to the public later. If he does, take it back to the tenant and offer it to them again at the lower price.

1700

In conclusion, the ability to convert rental properties serves a number of useful purposes. It allows for the rejuvenation of an aging housing stock. It provides affordable housing, often in very desirable areas and often well serviced by transit. The renovated condominium market gives tenants an opportunity to purchase their own home, often at the same cost as rent, it can help

improve community relationships, and of course it can be of benefit to the economy by creating new jobs.

I thank this committee for allowing me to address them today.

Mr Marchese: Thank you, Mr Madden, for your presentation. Just a few questions.

If a building is converted into a condominium and you have 85% or 90% where people actually buy their units and 10% decide not to, I think what you suggested in your paper on the first page is that there would be a great deal of pressure by the condominium corporation, or by the people who were part of the condominium, to squeeze the other 10% out one way or the other. Is that possible?

Mr Madden: No, I didn't suggest that at all.

Mr Marchese: Okay, but do you think that might happen?

Mr Madden: Actually, I have the condition now where we still have a minority of tenants in this complex. The tenants who are still in possession tend to be a little older, and they're better at maintaining the properties than some of the new homeowners are. There isn't a conflict between the tenants and the homeowners. The conflict comes where the homeowners can't get over that 50% hurdle and so they can't control the board, they can't control the monthly expenses, and that's a fair dollar out of their pockets every month. That's where you get a problem, when you cannot control the conversion.

Once you get over that 50%, it's personality. It's you and I being neighbours, and if we get along, it doesn't matter whether you're renting the house next door to me or whether you own it. It becomes a personality situation, not a question of ownership.

Mr Marchese: Is it fair to say — and it's good to have your reaction. If you do convert the particular building into a condominium, my suspicion is many will not be able to afford it, so they've got to go.

Mr Madden: They don't have to go. Remember that security of tenure doesn't mean they have to leave after it's over.

Mr Marchese: This is true. I appreciate that, and that's why I raise the concern that we're not likely to give the same treatment to those people who are there as those who bought their units. That's why my sense that the people who have lifetime tenure, who didn't buy as part of the condominium, may not get the same treatment in terms of repairs of their buildings as the other folks who bought the building. That's why I raised that concern earlier with you, with my previous question.

Mr Madden: I think that's a lack of confidence in people if you feel that way.

Mr Marchese: I see. It won't be that way, in other words?

Mr Madden: What happens is, the renters who stay on continue to have the interior of their unit maintained by their landlord. If he was a good landlord — and he would have had to be to get the conversion to be successful — he'll continue to look after the repairs of their unit.

The outside is a common maintenance; therefore the condominium board will maintain the flowers and the pool, so that wouldn't distinguish. But interior-wise, if you own your unit, you would have to look after it yourself. If I were a renter, the landlord would maintain it.

Mr Marchese: I understand that.

The Vice-Chair: I'm sorry. We have run out of time. We'll go to Mr Gilchrist.

Mr Gilchrist: Thank you very much, Mr Madden. I appreciate your coming before us. In fact, that project is just down the road from where I live and I'd like to compliment you for what you have done down there. It had become somewhat run down and it's now one of the nicest additions to the Guildwood community.

But I'm taken by one of your comments. First off, let me thank you. You've made two excellent suggestions and I'll certainly give you an undertaking to take them back to the ministry and give them due consideration. I appreciate that you've come to us with specifics and not rhetoric, and the fact that by working together with the tenants you were able to accomplish something that I think a lot of people who have been coming before us have been saying just wouldn't take place. The dynamic out there right now is very much that, with interest rates having fallen, far more tenants can afford home ownership right now — not all of them, but far more. Given that the rents in that unit were not exactly at the lowest end of the spectrum before, I think it's not inappropriate that you took the steps you did.

My question to you, though, is in terms of the issue of lifetime tenure. If you had found the same results you have that have actually turned out, or if you had anticipated that eight out of the 143 would not ever leave — let's say those eight who are one year later still tenants continue to stay there — would that have changed your approach to the project? Would it still have made financial sense and would you have still persevered?

Mr Madden: I would have promoted it to the owners. Obviously I was not the owner of the project. Economically the project would still have made sense. The key was reaching a sufficient number, because the first situation you've got to do is deal with your banker. He has the mortgage on the property. He has to be prepared to allow you to discharge those mortgages on a per unit basis rather than perhaps waiting the five years remaining on your mortgage.

Once you get past the discharge stage and that mortgage is eliminated, if the developer is collecting rent, it's free and clear rent basically. Part of it goes to the common expenses but basically it becomes cash flow.

The Vice-Chair: I'm sorry. I must cut you off and go to Mr Colle.

Mr Colle: Thank you, Mr Madden. I think you gave a very objective and a very insightful presentation. I appreciate that. It's been helpful.

I guess the thing that struck me the most is that the present bill, the way it's structured — and you're coming at it from a business perspective. You're saying essentially that it's a recipe that puts tenants at tremendous risk from unscrupulous landlords. For me it's déjà vu. I don't know if you remember the case on Tichester-Heath in the city of Toronto, where there was a beautiful old building where essentially an unscrupulous landlord, as you said, came in and brought in motorcycle people to get the tenants out of the building.

That's what I fear most, that in good locations where you've got the potential to upgrade or improve an

existing building, you're going to have, not in all cases but in some cases, especially older tenants faced with these unscrupulous landlords who are going to try and take advantage of them, the way this bill is structured right now.

Mr Madden: I agree. That's why if you can stagger the tenure periods so that people are leaving and you know that certain ones are going to leave in two years and in four years and in six years, if there are seniors who never want to leave, that's fine. It allows you to start getting revenue in, as you sell the unit, to start upgrading the project and upgrading the units. Remember, it doesn't take a lot of money out of your pocket because as you sell it, as you get the closing proceeds from the sale, you pay for the renovations. As you get homeowners in place instead of these bikers and these other tenants, the seniors who are still in the building become at less risk. Because the building is being improved, you get homeowners who take pride in the building and they're not going to force the senior tenants out of the building. You end up with a far better market.

The Vice-Chair: Thank you very much, Mr Madden, for bringing your ideas forward today.

ADVOCACY CENTRE FOR THE ELDERLY

The Vice-Chair: I'd like to call on Mr George Monticone, the Advocacy Centre for the Elderly. Good afternoon and welcome to the standing committee.

Mr George Monticone: I should note before I begin that I have asked individuals who live in care homes and some family members whom I'm acquainted with to be here with me today. They declined. They were concerned about how this might compromise their situation in a care home. I think that's an important fact to remember as I speak today.

The Tenant Protection Act, Bill 96, will in our opinion severely compromise the tenants of Ontario. There are many large issues raised by Bill 96 which there is simply not enough time to comment on today. So what I would like to do is to endorse the submission in its entirety of the Coalition to Save Tenants' Rights. That submission was made here last week, on June 12. In particular we endorse the coalition's position with respect to the introduction of vacancy decontrol, its opposition to that. We endorse its opposition to the repeal of the Rental Housing Protection Act. We endorse its opposition to the severe limitation periods imposed on tenants and not landlords. We also endorse its opposition to sections 36 and 200 of Bill 96, which appear to open the door to discrimination against low-income people by landlords.

Having said all of that, what I would like to concentrate on today are care homes. The Advocacy Centre for the Elderly is a legal clinic for low-income seniors. We are part of the community legal clinic system funded by the Ontario legal aid plan. Over the years we have had many clients who live in care homes, and as a result I would like to restrict my comments to the impact of Bill 96 on care home tenants.

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A care home is defined in legislation as a residential complex that provides accommodation as well as care. Care needn't be the primary purpose of the occupation.

Care home tenants are a diverse lot, and that's very important to understand. They range from young adults with disabilities to senior citizens who may or may not have disabilities. Care home tenants span the economic range, from the very poorest on social assistance to those who are wealthy. The health status of care home tenants also varies tremendously, from those who are active and well to those who have severe illnesses or disabilities.

The government should not assume that all is well in Ontario's care homes. Arbitrary garbage bag evictions and large rent increases took place before the introduction of the Residents' Rights Act just a few short years ago, but many problems still exist.

Our mothers and fathers are dying in care home fires due, in part, to poorly trained staff and understaffing. There are fly-by-night operations staffed by unqualified individuals. Tenants are moved from one home to another in the middle of the night. The quality of care is sometimes and often poor or non-existent, and a lack of information constantly results in surprises for tenants and their families.

Even if there are some good care homes, there are some that are not, and the government has an obligation to pay attention to this fact if it is to govern for all of the people of Ontario.

Today I would like to concentrate on two matters: One is the care home information package, which I'll refer to as CHIP — forgive the acronym — and I would like to also talk about section 93, the new grounds of eviction.

Let me begin with the CHIP. The CHIP is an instrument that a landlord is required to provide a care home tenant to explain what types of services and accommodation are available there; what sorts of packages of service are available; how much they cost; what kinds of services are mandatory and which ones are optional; what the minimum staff levels and qualifications of staff are; details of the emergency response system, if there is one; how the tenant may make complaints and also some statements regarding the tenant's basic rights. These I submit are details that everyone of us here would want to have if we or a family member were about to move to a care home.

We strongly recommend that the regulations governing what is to be included in the CHIP not take away any of these requirements. The CHIP is a powerful and cost-effective tool for educating consumers about their options and, minimally, it should remain as it is. Ideally, we would suggest a standard form of CHIP be adopted.

There is a problem with the CHIP. The main problem with it is that most landlords are not giving them to their tenants. We received many calls at the advocacy centre from seniors and their families who have difficulties over which care services they're supposed to be getting along with their rent and which are extra. These and many similar kinds of problems could and should be avoided if tenants were given a CHIP and a proper tenancy agreement was negotiated.

The Rent Control Act, as it stands now, gives tenants a remedy if a landlord fails to give them a CHIP. Subsections 9.1(1) and (5) make it illegal to give a notice of rent or service charge increase if the tenant has not received a CHIP. If the landlord does so, the notice is void. This protection has been removed in Bill 96 and it

should be restored. As Bill 96 stands, the tenant who has not received a CHIP can only point to section 87 and say, "I'm entitled to one." We don't believe that's good enough for vulnerable seniors living in care homes.

In my written submission I have made reference to a couple of other things we think should be included in the CHIP. I'm not going to refer to those now. I'd like to move on to the question of termination of the tenancy in a care home.

I'd like to begin by commending the government for reducing the 60-day notice period to 30 days in the case of a care home. That's a very useful thing because care home tenants frequently have to leave quickly, either to be hospitalized or to accept a long-term care bed they've been waiting for.

I particularly welcome this change as I think it will put an end to the curious phenomenon of care home operators complaining about the legislation being bad for care home tenants because it requires them to give 60 days' notice. This is most curious since the legislation doesn't require landlords to charge for 60 days. If they are compassionate and concerned, they've always been free to waive the right to the 60-day notice.

Let me move on to eviction, section 93. Bill 96 introduces new grounds for eviction unique to care homes. If a tenant no longer requires the level of care provided by the landlord or requires a level of care the landlord is unable to provide, the landlord may apply to evict. We believe this section is draconian, unnecessary and contrary to human rights legislation.

This new ground of eviction is harsh as some landlords can and will use it in bad faith. If a care home tenant complains that he or she is badly treated by the staff, or that there's a problem with the food or that repairs need to be done, a landlord acting in bad faith can quietly remind the tenant that they can be evicted because their health is deteriorating.

It doesn't really matter that it would be difficult or maybe impossible for the landlord to succeed in such an attempt. Tenants won't always know that, most often won't know it. The fear of being put through such a procedure will cause virtually every one of our care home tenants to back down from their complaint. We believe this is the single worst aspect of section 93. It's a tool for care home landlords to silence complaints and, for this reason alone, should be eliminated from Bill 96.

Let's turn to the care home landlord who is acting in good faith. The health of a long-standing tenant deteriorates. The landlord can't provide what he or she sees as necessary care. The landlord suggests the tenant apply for home care, but the tenant is either not eligible for it or it's not sufficient and the tenant doesn't have the money to pay for an outside agency to provide adequate care. So the landlord, in the interest of ensuring that the tenant will obtain adequate care, moves to evict under section 93.

Just as an aside here, it must be remembered that section 93 is not needed if the tenant is a safety threat to other tenants or if the tenant is interfering with the quiet enjoyment of other tenants. That's already taken care of. It's currently under section 107 of the Landlord and Tenant Act and is kept in the new bill.

What does the well-meaning landlord do to convince the Ontario Rental Housing Tribunal that they should evict a tenant whose health is declining? First, they have to show the tenant needs more care than the landlord and community-based services can provide; second, there must be appropriate alternative accommodation available.

Let's look at those two points. First of all, care needs that exceed the landlord's ability to provide them: The tribunal will be faced with assessing the care needs of a tenant with perhaps multiple and complex physical and mental problems. This is not an easy task. How is a tribunal with expertise in landlord-tenant matters going to do this? We believe it will be impossible. The only way around it is to hire a team of health experts as part of the tribunal.

The second issue here, by the way, is what is meant by community-based services. It's not at all clear in Bill 96. Is it home care available free through the newly established community care access centres? If that's what is intended here, it should be made clear.

Let's look at the second step: The landlord has to convince the tribunal that appropriate alternative accommodation is available. How is this to be done? What kinds of accommodation can the landlord point to? There are basically three: There are hospitals; there are long-term care facilities, such as nursing homes or homes for the aged; and finally there are other care homes.

Hospitals only admit persons with acute care problems and they discharge them as soon as that problem is dealt with. They are not accommodation in any ordinary sense of the word and they do not take persons in who need personal care such as help with eating, bathing, dressing and other activities of daily living. Hospitals are not an option here.

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What about long-term care facilities such as nursing homes and homes for the aged? These would seem to be the most obvious candidates for a place that would provide greater care. I want to remind the committee that there is a process in place for gaining admission to a long-term care facility. It's a complex process and there are four big steps: The tenant has to apply to the placement coordination service, now part of the community care access centre; second, the tenant has to be deemed eligible; third, the tenant must be accepted by the particular nursing home or home for the aged they want to get into; and last, a bed must be available in that home, and if it is, the tenants generally have two days to accept it or else they lose their chance.

You can't be admitted to a long-term-care facility unless you go through this process. Only the person seeking admission or their lawfully appointed substitute decision-maker can initiate that process and can give their final consent to go to a particular home. A care home landlord is not and cannot be part of that process; neither can the tribunal be part of the process. The tribunal can't order a tenant to apply for a nursing home bed. It can't order that they be eligible or that a bed be available. So unless the tenant or the substitute has already taken the necessary steps to secure a long-term bed, and the tenant is eligible and a bed is available, then suitable alternative accommodation in a nursing home will never be available.

It is important to note that even if a tenant applies for a long-term care bed at the time of a hearing, it's going to probably take two years before they actually get a bed. Practically speaking, this process will not ensure that people will be able to get to a long-term care facility.

What about another care home as a possible option? A landlord can try to convince the tribunal that there's another care home that will provide adequate care for this person. We think that's highly unlikely; if one care home can't do it, chances are no other one can. Care homes don't generally have resources to offer complex long-term care and they should not be operating as unlicensed nursing homes.

What about the rare case — and I want to take this as far as we can — where another care home might be able to cater to the care needs of a tenant? Does this mean that appropriate alternative accommodation is available? Only, I submit, if the tenant can afford the cost. If not, the other care home won't take them.

Suppose that XYZ care home can meet the tenant's needs and is willing to take them because the tenant can afford it. Does this mean that appropriate alternative accommodation is available? What if the new care home is too far from family and friends, in another county or another town? What if the home doesn't cater to specific cultural or ethnic needs that are of paramount importance to the tenant? What if the tenant simply doesn't like the new home, it has a bad reputation, it's not a place, as we say, where we'd want to put our cat? Will the tenant be evicted if any or all of these are true? We sincerely hope not.

Bill 96 gives no guidance to the tribunal as to what would be appropriate. As a result, a tribunal could say to the tenant: "XYZ care home is available in the next county. They'll take you and we hereby order you evicted from your present home." Is this what we really want for ourselves in the future, perhaps, if we become care home tenants, or for our mothers and fathers? I ask the committee to consider whether this strikes them as a morally defensible treatment of a person who is ill and in declining health.

Bill 96 authorizes a tribunal to make such a decision, to order an elderly person with a disability or illness to leave their home to move to another location because they have health care needs which their present landlord can't meet. We maintain that section 93 violates the security of the person guaranteed under section 7 of the Charter of Rights and Freedoms and that it violates the equality rights provisions, section 15, as well.

For these reasons, we believe it should be eliminated from Bill 96. If allowed to stand, elderly persons in declining health will live in continual fear of eviction from their homes. Section 93 will not work from a practical standpoint, it's morally repugnant and it's contrary to the fundamental law of Canada as enshrined in the Charter of Rights and Freedoms.

In concluding, I'd like to remind you of the National Framework on Aging, which this government has participated in and supported. The National Framework on Aging was introduced in 1994. There is a vision statement and set of principles against which all governments

that have signed on to this have agreed they will measure their legislation to see if it matches up to these principles.

The vision statement is, "Canada, a society for all ages, promotes the wellbeing and contributions of older people in all aspects of life." I ask this committee to consider whether section 93 and the other aspects of Bill 96 to which I have drawn attention can truly be said to promote the wellbeing of older people, especially those on modest incomes, with respect to where they live and their health needs. I suggest the answer to that question is no.

There are also five principles: dignity, independence, participation, fairness and security. I suggest to you that section 93 violates several of those principles. It compromises seniors' dignity and self-esteem, knowing that they can be singled out and told to move because of factors over which they have no control. It undermines their independence if they can be told where to live rather than to make that choice themselves. It's unfair, singling out only those with health problems for special treatment. Section 93 certainly compromises seniors' sense of security, knowing that as their health deteriorates, they may be forced to leave their home. If the National Framework on Aging is to mean anything, it surely should mean that section 93 must be removed from Bill 96.

I also urge members of the committee to think in terms of this framework in regard to all aspects of Bill 96. In that regard, I have set out the principles on the last page of my written submission for your consideration.

On behalf of all tenants in care homes, I thank you for this opportunity to speak on Bill 96.

The Vice-Chair: Thank you very much, Mr Monticone. You have used up the time available today for you. We appreciate you coming and bringing forward these ideas.

CANADIAN UNITARIANS
FOR SOCIAL JUSTICE
UNITARIAN FELLOWSHIP
OF NORTHWEST TORONTO

The Vice-Chair: I'd like to call upon Mr Wey Robinson and Ms Eileen Smith, Canadian Unitarians for Social Justice. Good afternoon and welcome to the standing committee.

Mr Wey Robinson: I'm Wey Robinson, a member of the steering committee of Canadian Unitarians for Social Justice. Doug Rutherford is the chair of our organization. We're sharing our time today with Eileen Smith. She represents the Unitarian Fellowship of Northwest Toronto.

I'd like to draw the committee's attention to our statement of purpose for Unitarians for Social Justice, which is attached at the end of the brief.

Our organization is made up of individual Unitarians from across Canada but concentrated particularly in the Metro Toronto area.

Why would a church group want to comment on this bill? We are driven by our religious belief in the inherent worth and dignity of every person to protest strongly against the government's proposal to weaken or remove many of the rights to freedom from arbitrary eviction and unwarranted rent increases which tenants won in the 1970s.

Bill 96 is a clear attack on hard-won tenants' rights and represents one of a rapidly growing number of measures which collectively constitute not only a war on the poor but an attack also on large numbers of middle-class people who are being driven into poverty.

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From the early action of drastically reducing welfare benefits, which were not keeping pace with real housing costs as it was, through changes to labour law and environmental protection and severe reductions in most public services in health, welfare and education, including the cancellation of new non-profit housing projects, this government is systematically widening the gap between rich and poor and fomenting social unrest. Resulting peaceful demonstrations have been met in some cases with brutal and excessive force.

As Unitarians, we are shocked and outraged at the clear immorality of the bulk of the government's program. Although the Tories often pay lipservice to the values that we most cherish and uphold, including people's inherent worth and justice, equity and compassion in human relations, their actions regularly belie their words.

Removing basic rights from tenants is just one more measure calculated to increase the profits of the rich, in this case landlords who were already making higher profits than many other businesses, at the expense of the poor and to weaken further the ability of a growing segment of society to find and keep decent, affordable housing. Canada is a signatory to the international declaration of human rights, which cites housing as a basic human right. The Tories thus violate our national commitment to human rights.

It is clear to us that the government is deliberately undermining tenants' basic security of tenure in four main ways: vacancy decontrol; taking landlord-tenant cases out of the courts and into a so far ill-defined tribunal; allowing the existing inadequate stock of rental housing to decrease further by repeal of the Rental Housing Protection Act; and doing nothing to improve the stock of affordable housing and jeopardizing the social housing that we do have by downloading it to the municipalities.

The bill also proposes to remove a basic right now enshrined in the Ontario Human Rights Code by allowing landlords to discriminate against prospective tenants by reason of income. This is a particularly vicious move and we echo the concerns of the Centre for Equality Rights in Accommodation expressed to you last week and picked up in Colin Vaughan's column in Monday's *Globe and Mail*.

Given that about one third of Ontario's people are tenants, and that of all tenants one third are on social assistance and another third at least are working poor, we can see that this bill targets the most vulnerable in our society and accelerates the housing crisis which is already upon us and is creating unendurable stress, family breakups and homelessness.

André Régimbald, one of the editors of an excellent new book called *Open for Business/Closed to People: Mike Harris's Ontario*, writes, "For the first time in decades, Ontario is faced with a Thatcher-Reagan populist social conservatism that seeks to colour economic and

social problems with a moral dimension." He is referring here specifically to moral condemnation of those on welfare whose alleged dependency is said to corrupt them.

To us Unitarians, as custodians of a religious faith with a long tradition of "speaking truth to power" and battling social injustice, this is the really scary phenomenon, that true morality is replaced by an ideology that abolishes the idea of the public good, values only those with money and demonizes and criminalizes the poor, the disabled, the aged and people of colour.

One scene in the recent struggle against the megacity bill which stays etched in my memory is this: In a corridor upstairs here at the Legislature, John Sewell, who was walking away after kind of a confrontation with Minister Al Leach, who by the way is also responsible for this Bill 96, turns back suddenly, points a forefinger and shouts, "Repent." Somehow that is appropriate now, as with almost all the other Tory bills.

We Canadian Unitarians for Social Justice demand in the name of religion and our common humanity that Bill 96 be withdrawn and scrapped.

Ms Eileen Smith: My name is Eileen Smith. I represent the Unitarian Fellowship of Northwest Toronto in Etobicoke. As a Unitarian, as a member of the faith community and as a citizen of a civilized nation, I believe in the right of every person to a home, a decent and adequate place to live.

The idea of home embodies many things: shelter from the elements, security, privacy, stability and independence. A home which provides most or all of these things is essential to the dignity and self-worth of every human being.

I wonder how many people in Toronto live in places which lack many of the qualities I mentioned? How many people live on the streets, where all of those things are denied? How many live in places where they are harassed, live in fear of being evicted, live in overcrowded apartments, dangerous and unhealthy basement apartments or crowded rooming houses?

We have a vacancy rate which shows us how many apartments are vacant in the city of Toronto — less than 1% at the moment — but we don't have a statistic that measures the number of people who are without homes or who are inadequately housed. We should have a monthly unhoused rate, something like our monthly unemployment rate.

If we did try to determine the number of people actually in need of housing in Toronto, who should we include? First of all, the homeless. We should also include the 38,000 people whose names are registered in the housing register. How about the young people, six or eight sometimes sharing the same apartments; our sons and daughters living at home because they cannot find or cannot afford a place of their own; the working poor who pay their rent and then go to the food bank for enough food to last them to the next paycheque?

There is no question, plans and policies for housing in Toronto have fallen woefully short of filling the needs of our citizens. We have a shortage of decent adequate housing in Toronto.

The present legislation is not going to improve the conditions for low-income renters at the present time. I'm

sure you folks have had a parade of people here over the past weeks — I've heard a few of them already — telling you what the effects of this legislation will be. There's no need for me to expand on the problems of renters in a tight rental market. The short-term effect will surely be for landlords to practise harassment policies, minimize maintenance costs, escalate rental rates and so on.

We are told that the measures included in Bill 96, together with the magic of the free market system, will solve our problems. Gradual removal of rent controls and deregulation of conversions and demolition of rental units will enable and encourage developers to build more rental units, it is supposed. But let us look a little deeper into the facts.

On June 11, the housing stakeholder panel under Councillor Dennis Fotinos made a progress report to the planning and transportation committee of the council for Metro Toronto. A consulting firm, N. Barry Lyon Consultants was hired to do an in-depth study of the conditions surrounding development in the city. Rental housing was the agreed top priority.

The consultant had investigated the opportunities available for developers if they wished to produce new rental housing in Toronto. He had many interesting facts to give us. For example: CMHC estimates that 4,000 to 5,000 units of rental housing must be built each year to maintain our present vacancy rate; the annual rate of return on old rental units under rent control is 7% to 8%; return on investment in new rental units is 4% in the first year; condominiums yield approximately 15%. Because of the low return, high initial investments costs and instability in long-term economic outlooks, investors are reluctant to enter into the construction of rental units.

The consultant went on to describe the prohibitive problems associated with construction. He noted the difficulties with obtaining land, high municipal charges on development, high costs of CMHC insurance, land transfer and other taxes, lengthy periods before a positive return could be expected, and so on.

He continued by outlining some of the positive measures that government could take to make the climate more conducive to rental construction. Some of the suggestions were: making tracts of land available to developers under long-term lease arrangements; innovative schemes to make financing available in ways that make building of rental units more attractive; adjustments to the killer costs of the GST and assurances that the harmonization of the GST and PST will not add to the burden of taxation on new construction.

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The committee expects to finish its work in the fall with a final report zeroing in on incentive to developers. Although their suggestions will be directed to the municipality, many of them will lend themselves to collaboration between the various levels of government.

Without doubt, the legislation under consideration today will in the short term cause hardship to many low-income renters, create disruption and instability in the rental market, and provide both the means and the incentive for landlords to begin a reign of terror against tenants. If it is enacted now, without measures being taken to encourage developers to build more rental

housing, it will fail in both the short term and the long term in solving our housing problems.

I strongly urge you to delay this legislation until serious consideration has been given to measures to stimulate rental construction in Toronto and the GTA.

Mr Gilchrist: Thank you all for coming before us here today. I appreciate the time you took to prepare and deliver your presentations. Ms Smith, I would just note to you that according to Seaton House, shelter use across Toronto was actually down 1.8% last year, and according to the Daily Bread Food Bank, food bank use is still well below its 1992 consumption rates.

Mr Robinson, I'd like your comments on another quote. Mr Marchese's been keen to quote Nelson Rockefeller and use an American example. I'd like to use something a little closer to home: "Many people assume that rent control is there to protect lower-income tenants in the units that they rent. In fact, it's upper-income tenants who get most of the benefits. They say the upper one third of the tenants get two thirds of the dollar benefits of rent control, and in fact the benefits don't flow to the people who are at the bottom end of the slate when it comes to rent." Would you agree with that statement?

Mr Robinson: No, I wouldn't. I think rent control has always been a blunt instrument and it was never designed to solve the housing crisis. It was just an emergency measure in the first instance when it was brought in in the 1970s to stem unwarranted huge increases, particularly for seniors, and it was maintained because it was seen to be necessary in the absence of adequate choice of housing.

It's never been a perfect system — we've always had problems with it — but it was certainly better than nothing. There is some tendency, I understand, in New York particularly where it's been around a long time, for rent control to offer a break to higher-income renters. But in Toronto, my experience has been — and I've been in tenant advocacy and tenant advising in a legal clinic for many, many years — that it's been indispensable to low-income tenants.

Mr Gilchrist: You might be interested to know that quote comes from Mr John Sewell in a Studio 2 interview on TVO. Mr John Sewell doesn't believe that rent controls benefit low-income tenants and the people that we hear, group after group, suggesting are there.

None of us has to be a builder to know that you don't build a building overnight. There's obviously going to be a lag time before new construction. Even if the developer today got very excited, you couldn't have a building open tomorrow. It will take 12 months, 15 months. Would you not agree with me that, with 50,000 more people moving to Toronto in 1995, to have only 20 new apartment units, and 37 new apartment units in 1996, the current regime, whatever its benefits, is not attracting the kind of new development to make sure people have an affordable place to live in Metro Toronto? Would you not agree with that?

Mr Robinson: We have stressed the shortage of housing and I applaud Mr Sewell's stand on the megacity. I disagree with him about the quote that you gave me from him. My colleague here has addressed the

shortage of rental housing. She has urged the committee to suspend the operation of this bill until there is adequate rental housing. We've addressed that issue.

Mr Gilchrist: But what —

The Vice-Chair: Thank you very much, Mr Gilchrist. Move on, please.

Mr Duncan: I'm reminded of Rudyard Kipling's poem *If*, "If you can bear to hear the truth that's spoken twisted by knaves that make a trap for fools."

With respect to the allegations about the Daily Bread Food Bank, I've met them and they don't agree with what you're saying. In fact, you're comparing apples to oranges.

Mr Gilchrist: Published report.

Mr Duncan: Of course it is, but you should read the next three paragraphs. You're comparing 1992; we were in a sustained recession in 1992. We still have an unemployment rate that's far too high. You ought not to use things out of context.

In terms of Seaton House, the same thing: You're comparing apples and oranges. If you're suggesting that a 1.2% decrease in the use of shelter in an economy that's growing like ours is, when banks are making billions of dollars in profits — I think you ought to think through your priorities pretty carefully.

Finally, with respect to Mr Sewell, he wasn't making an argument with respect to getting rid of rent control; he was making an argument with respect to saying what's flawed in the current system. I suspect if you asked Mr Sewell, "Do you think there should be no rent controls," he'd probably not agree with you.

Mr Gilchrist: That's what he said.

Mr Duncan: You're taking it out of context. I spoke to him about that. You ought to be ashamed for misusing those quotes, and quit being so darn —

Interjections.

The Vice-Chair: Order.

Mr Duncan: I think we all agree there's a need for more affordable housing. I don't think anybody disputes that. We heard compelling evidence today from the state of New York. Just out of curiosity I phoned the Governor's office today and they didn't disagree with those arguments. I would ask you this: Would you be inclined to support policies aimed at developing more affordable housing, be it changes, provided there's protection on rents for tenants?

Mr Robinson: Sure.

The Vice-Chair: Thank you. We must move on.

Mr Marchese: I thank all three of you for coming. I just want to give you an opportunity to respond to the comments that Mr Gilchrist was saying, because what he's saying is that in the last two years we haven't seen much building going on. We agree: The government stopped building and the private sector is not building.

His argument is: "We've got to change all that and it takes time. Once we've got rid of these ugly New Democrats who have stopped growth and building, then we can start building. You see now, we haven't been able to do it in the first two years and it's going to take some time." But you were saying, in terms of some of the other research that other people have done who are probably their friends, that it's a crisis now and it's likely to be a

crisis in the future because we're not going to see much building. Isn't that the case? Do you think that they're on the right track, that maybe in a couple of years, once they create a better climate, somehow these builders are all of a sudden going to build affordable housing?

Ms Smith: The way the situation stands at the moment, developers are not encouraged to build housing, even with the removal of rent controls, because there simply is not enough leeway, enough yield on their investment to make them build. There must be other measures put in place to encourage them to do this.

Mr Marchese: I support the statement you concluded with, urging them "to delay this legislation until serious consideration has been given to measures to stimulate rental construction." It's a very good point; they should take that into consideration.

By the way, they think this bill is balanced and fair, that finally they've achieved some fairness for everybody, especially tenants. "The pendulum has been so far against these poor landlords that we have to do something." What do you say to that kind of argument?

Mr Robinson: The Landlord and Tenant Act and the Rent Control Act were both, in the 1970s, legislation designed to correct an imbalance of power because it was recognized by the government of the day, a Tory government, by the way, that there's a natural imbalance of power and that landlords have more than tenants, so they brought in remedial legislation to assist tenants to secure their legal rights.

What can I say to this bill? Simply, it shocks the hell out of me because it removes all the basic security of tenure which I fought so damn hard for in the 1970s and which I have seen the benefit of continuously in my work for the last 20 years. In principle, it removes all security of tenure, it eats away at it so seriously.

The Vice-Chair: Thank you very much, Mr Robinson and Ms Smith, for making your presentations here to day. We appreciate the information you've brought to us today.

JOSEPH HACOEN

The Vice-Chair: I'd like to call on Joseph Hacoen. Good afternoon and welcome to the standing committee. You have 15 minutes in which to make your presentation.

Mr Joseph Hacoen: Good evening. Where's Mr David Tilson?

The Vice-Chair: Oh, I'm sorry. He had to leave. I'm the Vice-Chair.

Mr Hacoen: I'll start. My family and colleagues suffered tremendously as a result of the controls implemented under the NDP government and the delays in the implementation of the new rules by the current government. Currently I encounter problems such as rents below market value. I have units that legally are charged the maximum rent of \$380 per month, including parking. In the same building we have many two-bedroom units which are legally registered at much lower rents than the one-bedroom apartments; ie, a one-bedroom that is more expensive than a two-bedroom. Air conditioners are legally not included in the base rent. However, many tenants agree to pay extra for the use of an air conditioner. The NDP government ruled that it would be illegal

to charge extra even though both the tenants and the landlord agree, for the usage, as the use of an air conditioner is not included in the base rent.

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In reality I am subsidizing my tenants and accumulating losses at the same time. As a landlord I am forced to sell my product, which is shelter, to my customers, the tenants, below cost. Wouldn't you like to buy a hundred-dollar bill for \$75? While this seems normal in the case of a non-profit organization, you must keep in mind that my company is still attempting to run a business hoping to make a real profit.

I have suggested several alternatives in the past. I agree that the best option is to scrap the NDP's destructive rent control legislation. Closing the rent control offices will help reduce the deficit, which would be an additional step towards the recovery of the economy, the province, the expansion of free enterprise and the downsizing of the government.

This government is suggesting to protect tenants rather than units. I welcome the proposal of the landlord and tenant negotiating the rent without regulatory restrictions. I would like to suggest that landlords and tenants may negotiate the structure of their own agreements, without restrictions, which would determine rent and annual increases, and separate charges such as parking and others relating to usage, such as air conditioners.

As a landlord, I feel I should have more of a say in the running of my business. I am not presently in the business of subsidizing my tenants. I pay the same amount of realty taxes, hydro, heat and water as other building owners. However, my income is much lower. My case may be unique, but I feel I deserve some rights too. The new legislation fails to deal with chronically depressed rents. The new legislation should include higher increases, say 5% above guidelines for three years for units which are 15% below the average rent, which is computed by CMHC on an annual basis.

I would like to remind certain members of the committee — Mr David Tilson made some statements prior to the election — as to the fairness of dealing with depressed rents. You may refer to my written submission, and I have attached a copy of a letter from Mr David Tilson.

The proposed new legislation claims to decontrol the current system. However, it will recontrol the unit as soon as it is reoccupied. Unfortunately, landlords may be worse off as a result of losing the current maximum rent. In most buildings, landlords charge rents which are lower than the maximum allowed due to current market conditions. This is done in the hope that one day a better return will be achieved on the investment.

This legislation is retroactive, as landlords are losing previous increases which were ordered and allowed by the Ministry of Housing due to losses and capital expenditures by allowing new tenants discounted rents. In discounting rents during hard times, landlords are caught in a downturn in the market without the ability to have future increases when a turnaround occurs. When a vacancy opens during the downturn of the market, the lower discounted rent will become the maximum rent. The new legislation should allow for total decontrol of

the units upon vacancy or to have more favourable rules dealing with discounted rents.

The new direction of the proposed legislation deals with issues such as rent reductions, fines and penalties by the property standards officers and harassment enforcement units to protect tenants. Your legislation is called tenant protection legislation, while I believe that it is in fact the landlord who currently needs more protection than the tenants. As a landlord I am being harassed constantly. My property, the apartment building, is often vandalized by tenants. I believe that your proposal will lead to similar actions taking place in the future. Tenants will sabotage the property, then will be able to call the property standards inspector due to neglected, rundown property conditions. The inspector will impose a fine. The result is obvious: The landlord will be the loser once again. Protection for landlords is desperately needed and is long overdue.

The new legislation will also deal with subletting of units in a strict form, a direction which I welcome. However, I ask that you assist the landlords in the legislation on the subject of non-payment of rents as well as stricter rules concerning tenants who are consistently late with their rent payments. If I do not pay my mortgage, hydro, gas, water and other bills on time, a late penalty is imposed. Why are tenants exempt from being on time?

The final issue is the capital expenditures allowance. We need a fairer increase allowance for buildings with low rents that may require major capital expenditures now. This is an urgent issue for the tenants, the building and the various contractors. This specific issue may improve the quality of buildings and tenant and landlord relations and increase employment.

To summarize, I currently suffer low rents as if I were government-run housing. I have one-bedroom apartments which are rented at a higher rent than two-bedrooms, which means that tenants in the two-bedrooms don't move, but I get a high turnover in the one-bedrooms. Depressed rents are an issue that must be dealt with.

Finally, if you could give landlords a reasonable allowance for major necessary repairs, and I stress necessary.

If you have any questions, I'd be more than happy to answer you.

Mr Marchese: Mr Hacohen, do you think that tenants have the same kind of power as you do in terms of negotiating whatever it is that you think you can negotiate?

Mr Hacohen: I believe that tenants have more power. They are consumers like any other consumers of any product.

Mr Marchese: So because they have more power, in your view, there shouldn't be any controls because they can negotiate for themselves.

Mr Hacohen: Absolutely.

Mr Marchese: In some buildings where you have a whole lot of immigrants or refugees, people who don't know their rights, people who are on low income, welfare, they have power anyway; even if they don't know their rights, they probably have a lot of power, more than you.

Mr Hacohen: They are still the consumers. I have in my buildings many tenants. Some are refugees and they seem to know their rights very well.

Mr Marchese: By the way, are you doing okay in terms of profits? Are you losing money?

Mr Hacohen: Yes.

Mr Marchese: So how do you operate your building?

Mr Hacohen: How do I operate my building?

Mr Marchese: Yes, if you're losing money.

Mr Hacohen: As I explained to you, very easily. Since I bought that specific building I've had to mortgage my home, I've had to mortgage my mother's home and that money went towards the building so we don't lose it.

Mr Marchese: Why did you buy that building if you knew there were such problems?

Mr Hacohen: I'll explain to you. I bought the building in 1989, with legal rents. Then the government came back and said, "Sorry, we made a mistake; those rents are illegal," and they reduced my rents.

Mr Marchese: Now that you have this ability, when you have decontrolling, because people eventually move for different reasons — some die, of course, that's a natural thing, and maybe you're able to raise those rents as much as you think you can get for that unit — is that going to help you or no?

Mr Hacohen: Absolutely, it's going to help me. If I'm renting an apartment for \$380 or \$400, this doesn't cover anything.

Mr Marchese: Okay, so you're happy with the decontrolling of rents. Maybe it doesn't go far enough for you. Is that it?

Mr Hacohen: Yes. But I would suggest to you that if you think we should control the rents, then you should also control the price of food. Food and shelter fall under the same category, as far as I'm concerned. They are both necessities.

Mr Marchese: I don't disagree with that.

Mr Hacohen: Also the basic cost of cars: They're too expensive. If you can get me a car for half-price, then I'll be happy to rent it to my tenants for half-price too.

Mr Marchese: Thank you, Joseph.

Mr Gilchrist: Thank you very much, Mr Hacohen. I was tempted to let Mr Marchese continue to have our time because I think you, perhaps better than anyone we've heard in the first two days of hearings, have put a very human face to who landlords can be.

There is no suggestion that all landlords are saints, nor should there be a suggestion that all tenants are saints. There are good landlords and bad landlords, but I think you've painted a very clear picture of the kinds of pressures landlords have been under. You've illustrated very clearly why nobody is building new buildings.

Would you agree, Mr Hacohen, that restrictions on improving your buildings, because you can't pass the costs along, have left your building perhaps in a poorer state than it would have been if you could have passed along the costs of capital improvements?

Mr Hacohen: There are certain repairs I would love to do but I can't. I can't afford it. Then there is the other

issue of a tenant and landlord relationship, that because of the NDP, every landlord is a devil. As soon as the tenant knows you are the landlord, you are the bad guy.

Mr Gilchrist: Mr Hacohen, throughout these first two days, you are right; there have not been very flattering comments made: "Everyone has got to be a friend of the Tories, you're a big fat cat, you're making a lot of money and you're doing it on the backs of tenants." I think, as you've just said, it's as compelling a case in the opposite direction as people who are struggling to find accommodation in some of the more densely populated parts of Toronto. But you've had to mortgage your house and your mother's house just to keep a building which is costing you money while still providing housing to others, and there's no accommodation from this side that that's a contribution to our society. There's no accommodation from this side that you're the one who is the loser in this equation.

I want to thank you very much for coming forward here today and demonstrating to us that there is a balance, and particularly for the fact in your presentation that you still have concerns about this bill not going far enough, that this isn't a sop to landlords; it's a bill that's very balanced. Landlords still have concerns, tenants may have concerns, but it's our effort to try and break this logjam that has left people like you, and tenants, in the situation we find ourselves in today. Thank you very much coming before us.

Mr Hacohen: You're welcome. I also argue that you're not going fast enough.

Mr Gilchrist: Duly noted. Thank you, Mr Hacohen.

The Vice-Chair: I think we have one minute for a quick question, Mr Wettlaufer.

Mr Wettlaufer: It won't be a question so much as a statement.

Mr Hacohen: I thought I was the one to make the statements. You are to ask the questions.

Mr Wettlaufer: Mr Hacohen, I wanted to compliment you on coming before us because I think your situation is so indicative of what the situation is in my riding of Kitchener, where the vast majority of landlords are immigrants. They're Polish, they're Jewish, they're Germans, they're Italians, who came here after the war, and the residences, the apartments they own, represent their life savings, their pensions. They have not been able to appreciate the value of their investment because of the low returns they're getting. Second, I notice they are not being kept up to par from a safety standpoint.

I want to thank you so much for coming here.

Mr Hacohen: Just one more comment: I was able to keep my building in more than decent shape. It's up to standards because I'm proud of my property, but unfortunately, and excuse my language, those idiots from the NDP made a big mistake.

Mr Marchese: God bless you, Joseph. Thank you for coming.

The Vice-Chair: Thank you for appearing here today. This committee stands adjourned until next Thursday at 10 o'clock.

The committee adjourned at 1803.

STANDING COMMITTEE ON GENERAL GOVERNMENT

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Vice-Chair / Vice-Présidente: Mrs Julia Munro (Durham-York PC)

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Mr Marcel Beaubien (Lambton PC)
Mr Dwight Duncan (Windsor-Walkerville L)
Mr Bill Grimmitt (Muskoka-Georgian Bay / Muskoka-Baie-Georgienne PC)
Mr Ernie Hardeman (Oxford PC)
Mr E.J. Douglas Rollins (Quinte PC)
Mr Wayne Wettlaufer (Kitchener PC)

Also taking part / Autres participants et participantes:

Ms Marilyn Churley (Riverdale ND)
Mr John Gerretsen (Kingston and The Islands / Kingston et Les Îles L)
Mr Peter Kormos (Welland-Thorold ND)
Mr Richard Patten (Ottawa Centre / -Centre L)

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Official Report of Debates (Hansard)

Thursday 26 June 1997

Journal des débats (Hansard)

Jeudi 26 juin 1997

Standing committee on general government

Subcommittee report
Tenant Protection Act, 1996

Comité permanent des affaires gouvernementales

Rapport du sous-comité
Loi de 1996 sur la protection
des locataires



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENT

Thursday 26 June 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Jeudi 26 juin 1997

The committee met at 0911 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr David Tilson): The purpose of the meeting is to review and consider the report of the subcommittee. Mr Duncan, could you read the subcommittee report, please?

Mr Dwight Duncan (Windsor-Walkerville): I've read it.

Interjection: Out loud.

Mr Mario Sergio (Yorkview): He's not sure he wants to do that.

Mr R. Gary Stewart (Peterborough): Give it to Jim. He can do it.

The Chair: You read it, if he doesn't want to read it.

Mr Steve Gilchrist (Scarborough East): "The subcommittee met Tuesday, June 24, 1997, and agreed to the following:

"(1) That in addition to advertising in each of the cities that the committee will be travelling to, an ad will also be placed in the French daily paper in Ottawa.

"(2) That the Chair, in consultation with the clerk, has the authority to solve any scheduling problems.

"(3) That the Chair, in consultation with the clerk, will decide how many interpreters the committee will use during each day of hearings.

"(4) That the subcommittee members will go back to their House leaders to request that the committee be allowed to do the following:

"Hold two days of hearings, during the committee's regular meeting time, in September.

"Travel for six days during the recess in September and/or October.

"Have one day of clause-by-clause consideration during this recess.

"Immediately report the bill back to the House when it resumes sitting in October."

If I can speak briefly to the report, Chair, there's no doubt that, by a two-out-of-three vote, that is the report of the subcommittee. Unfortunately, in clause 4 the other two members were relying on certain decisions to be made by the House leaders or the government House leader that have not been made.

First off, there was no House leaders' meeting at all. Second, the calendar motion we have adopted does not have a recess in September or October. So I move an amendment to the report of the subcommittee, namely, that section 4 be replaced and read:

"That the committee meet on August 5, 6, 7, 8, 11, 12, 13 and 14, 1997, for the purpose of public hearings in the cities outlined in the subcommittee report of June 12,

1997, and that clause-by-clause consideration take place on August 28 and September 4, 1997."

Mr Duncan: Why would you propose that we meet on Fridays and not on Monday?

Mr Gilchrist: August 4 is a holiday.

Mr Duncan: The one week is. It would work a little bit easier for the —

Mr Gilchrist: Excuse me. The second week is Monday, Tuesday, Wednesday and Thursday.

Mr Duncan: I see.

The Chair: Any questions, comments, debate?

Mr Sergio: As we had left it last time and per the committee report we have now, I went ahead and made arrangements for the first two weeks in August; I believe a deposit has already been made. As I mentioned to you before, I'm taking two weeks of French immersion lessons and I am not planning to be here the first two weeks in August.

The Chair: As Chair, I'm governed by the majority of the committee and the wishes of the committee. I don't know whether anyone can respond to that.

Mr Duncan: Might I suggest that it would be a little easier in terms of scheduling of our members if we could move Friday, August 8, to Friday, August 15.

Mr Gilchrist: I wouldn't have a problem with that.

Mr Rosario Marchese (Fort York): That wouldn't be helpful to me, because that week I am here and I'd prefer to be part of those. I want to argue against this generally, for a variety of reasons. Shifting one day doesn't really solve it for me, because this is a political question, really.

August is a difficult time. Generally, we meet at the end of August, that I can recall. People are almost back from their holidays, at least many people. People begin to pay attention to the issues later in the summer than in the middle of the summer. July is completely out of the question in terms of what people will do and won't do, as I think people understand, not just for the purposes of the public but for your purposes. For our purposes, of course, people need a rest, but for the purposes of the public, July is completely a waste. August is too, I would argue. We're doing something where the majority of people are likely not to pay too much attention.

I have to tell you, I'm a bit upset by this scheduling. We had agreed in the subcommittee two weeks ago or a week and a half ago, whenever we talked about it, to try to schedule some days late in August, during our session — I thought that was reasonable — and then immediately after, we were going to do two weeks or so of hearings, six days of hearings plus clause-by-clause. I thought that was a reasonable thing for the members and for the general public who would be interested in following and participating in debating this issue.

This, in my view, does a great disservice to the general public that has a great interest in this. By the general public, I don't mean the general public but rather tenants who, in my view, are very concerned about what you folks are doing with these legislative changes.

I'm telling you, I'm really protesting these dates, not just from a personal view but from a general and political view in terms of the fact that most people won't have a sense that these things are going on. It's very complicated to organize and very complicated for people to get here in the summer. I'm stating my objection to what you folks are doing with the scheduling.

Mr Gilchrist: Mr Marchese, I appreciate that coming back August 18 to continue work in the House certainly has changed the way that things operate in August. But I would just draw to your attention that we already have expressions of interest from more people than we could accommodate in Ottawa, London, Hamilton and the two more days in Toronto. So in terms of your comment that this might disadvantage people or somehow not have a full hearing in those towns, five of the eight days are already filled and we haven't even placed the advertisements yet. I think that is less of a consideration than it might be. I appreciate the clerk apprising us of the number of presenters who have already expressed an interest in appearing.

Our biggest problem is that the calendar motion that has already been adopted by the House has us coming back August 18 and does not speak to a break. The premise on which we had our earlier discussions does not appear to afford us the opportunity to change.

0920

The Chair: I have Mr Marchese and Mr Duncan on the list to speak, unless Mr Gilchrist has some more comments to make. I interrupted because I'm concerned about the process with the motion that's on the floor. The motion doesn't really refer to the subcommittee report.

Mr Gilchrist: I said that orally. I said I amend section 4 —

The Chair: Okay. So your intent is that 1, 2 and 3 stand and that section 4 has these dates you've referred to, August 5, 6, 7, 8, 11, 12, 13 and 14. Is that your intent?

Mr Gilchrist: That is correct, and the two days of clause-by-clause.

The Chair: And the two days of clause-by clause on August 28 and September 4.

Mr Marchese: For the record, Steve, yes, the calendar motion has us coming back. That doesn't make it easier or better. The fact that the government has done that doesn't change anything, other than that they've decided for political reasons to bring us back in August.

In terms of the hearings, you can get deputants to come, I suspect, and that's not a big deal. No one pays attention to the issues in the summer, by and large. We all know that. Some will be paying attention, no doubt, but generally the summer is a difficult period. You know that, Steve.

I'm not talking about our ability or inability to fill spots. That's not what I'm getting at. I am getting at the fact that the summer is a difficult time to get people's attention to the issues. I think you know that, I think your

friends there know that, and I think the government knows that. I'm protesting that. We will get deputants, no doubt about that. That's not sufficient for me.

Mr Duncan: My reading of your government House leader's comments in the media this morning were that the intention is that the House will adjourn after about a month. That's quoted in this morning's *Globe and Mail*.

I think there is nothing to be gained by jamming these things into the first two weeks in August. There's a whole variety of reasons. We'll look forward to full attendance by the government at all these hearings as well. I think it would serve the public interest if we went back to our House leaders and said that a schedule that accommodates hearings in October — I'll remind members of the committee opposite that the original motion doesn't contemplate — it allows an escape latch, if you will, that the bill has to be reported back no later than November 1.

I don't understand the motivation in jamming these hearings into the first two weeks in August. I suspect there's just an element — the government will probably argue that they have to have the bill by this date. I would tell government members opposite the bill won't be proclaimed, in any event, likely until November or December.

We'll certainly be there whenever the hearings happen, but it's crazy to jam them in when you're jamming them in because of (1) the lack of public interest, and (2) it would be very difficult for members. Let us be candid. We all go back to our constituencies in the summer. We all try to get our holidays in in the summer. It makes scheduling a lot more difficult.

It's going to be more difficult, I would submit, for government members because the obligation is on you folks to form quorum. We will be there at each stop. It's silly, the game that's being played. The government's own motion — it's passed, it's in the record — says the bill can be reported back as late as November 1. We can play these games and do this. We'll be there at all the hearings, but it's real silliness, in my view.

Mr Wayne Wettlaufer (Kitchener): I think everybody's missing the point here. Last year we travelled in August, and it was on the proposed legislation. There was no lack of interest; there was no lack of media coverage; there were no problems at all.

In so far as this year is concerned, the House is coming back sooner. It's coming back on August 18. Those who are concerned about wanting to spend time in their constituency will have the entire month of July to spend there. It is not abnormal to have only one or two weeks' holidays in the summertime, for those of us who have not been in public life before. It shouldn't inconvenience you in July. As far as August is concerned, that is the best time to travel. Committees generally travel in August in the summertime. It's the only way to get out to the public outside of Toronto.

Mr Marchese: The comments by Wayne are not helpful at all. I have to tell you, they're not helpful.

Mr Wettlaufer: Sorry. I tried to be.

Mr Marchese: Last time we travelled it was August 19. It was not the beginning of August; it was the middle of August. Also, it was a proposal, not a bill. This is a

bill now, not a proposal. He makes it appear as if somehow we're missing the point. I don't know what point we're missing. What the hell are you talking about? We're not missing any point here.

The point you're making is that you want to rush this through to get it out of the way as fast as you can because you don't want to go past September. Say that. If you say that, it's clear and I understand it. But if you're saying we're missing some point — we're not missing any point. We travelled August 19 on a proposal, and yes, we had people who came to depute.

This is a bill now, before we come back to a House sitting. There is a reason for that. I know why you're doing it. I'm telling you clearly why you're doing it. You want to get it out of the way because you don't want it to get in the way of other issues and you don't want to extend this issue beyond September. You don't want to do that, because the more you extend that into September, October and November, it gets politically messy for you and your buddy Mike Harris. That's the issue. I know that. Say that, though, but say it clearly so people will understand it.

Don't make it appear somehow for the record that we're missing some point. We're not missing any point. The real point has nothing to do with people's holidays, although people will take their holidays. People will work in July; I will do my work in July, because it's my intention to get out in my community in July. It's got nothing to do, necessarily, with people's holidays. It has a lot to do with people in the summer not paying attention to the issues, and this affects 3.2 million people.

Mr Wettlaufer: That isn't true.

Mr Marchese: What isn't true? I don't get it.

Mr Wettlaufer: They pay attention to the issues.

Mr Marchese: So that's the issue here. We're not confusing anything. It's quite clear. We're objecting to that, not anything else.

Mr Duncan: We'll be there in August. We look forward to seeing the government members there, all of you, and we'll have fun. I remind you that one of us likely will not be there at all the hearings. We'll release those this week so that you'll have to maintain your quorum in all these communities. Have a nice summer.

I would move, by the way, that we have the hearings the last two weeks in July and that we add three days.

Mr Gilchrist: There's a motion on the floor right now, so you can't do that.

Mr Duncan: I would add a further amendment to this amendment, that we meet in the last two weeks of July and add three additional days of hearings. I sense the government members are very anxious to be out this summer meeting with people, so I'll make that motion.

The Chair: Just so I understand, Mr Duncan, you're suggesting an amendment to the amendment which will say we will meet the last two weeks of July?

Mr Duncan: That we meet the last two weeks of July. I further propose that we add three additional days of public hearings to accommodate all the delegations that want to be heard. I sense the government members want to have extensive public hearings on this, and I am quite prepared to be there every day to make sure you can be there to hear those public hearings. I hope the govern-

ment will support that, based on what my colleague opposite just said.

The Chair: The problem, Mr Duncan, is that this committee is governed by the order of the House, and the order of House has specified the number of days as being eight days. That amendment you have put forward expands that, and I don't think the committee can do that.

Mr Duncan: I would move, then, that we send it back to the House leaders to request those additional days in July so we can all meet and hear the extra delegations.

Mr Gilchrist: That's substantive. That's not an amendment of my amendment.

The Chair: Mr Duncan, the problem with that is that it's not the House leaders who decide these things. A motion in the House restricts the time to eight days, so that amendment as well is out of order.

0930

Mr Duncan: Then I'll move that the eight days of hearings that we're proposing be held in the last two weeks of July.

The Chair: It appears we have an amendment to an amendment. That amendment appears to be in order, Mr Duncan. Debate?

Mr Sergio: To the parliamentary assistant, what is the purpose of bringing this amendment now?

Mr Gilchrist: The purpose is to conform with the motion of the House that we have eight travel days prior to the return of the fall session, which begins on August 18.

Mr Sergio: I have no problem with the eight days. Why are you changing the dates?

Mr Gilchrist: I'm not changing any dates that deviated from that House motion. The motion that's before you, voted on by your party and the NDP, does not conform. Obviously, September and October do not fall before August 18, so they are outside the spirit of the House motion and we cannot deviate, as the Chair has just indicated, from the House motion.

Mr Sergio: Mr Chair, at the beginning you said that the House will be sitting right through, starting August 18.

Mr Gilchrist: The Chair didn't say that. I said that the motion we passed in the House simply says the fall session starts August 18.

Mr Sergio: Let me finish. I would assume that you have brought this motion here with the assumption that the House will be sitting starting August 18 and going right through, so there would be no time for the committee to meet in September or in October. Have you ascertained for sure that the House will be sitting right through after August 18?

Mr Gilchrist: All I know is what has been voted on in the House. We voted on two motions, one which says, starting August 18, the fall session, without a break —

Mr Sergio: Mr Chair, I would suggest that before we continue debate on this one here, because we seem to have difficulties for various reasons, and no reason has been put on the floor that we don't want to sit because we don't want to sit. There are some serious difficulties with it. Why can't we ascertain exactly if the House will be sitting right through? If it doesn't, then I think our problem is solved. I don't think the committee will have

any problem in sitting in September, since we have plenty of time to have the report ready for November 1.

The Chair: Mr Sergio, there are two comments I have with respect to your request. First of all, I would prefer that we restrict our debate to the amendment to the amendment which has been made by your caucus that we meet the last two weeks of July. I believe the House motion, which I have asked the clerk to get me a copy of, states that this must be dealt with in the summer session, which will end — if you have a copy, you could read it. We're governed by the motion of the House, Mr Sergio. It's as simple as that.

Mr Sergio: I realize, but I wasn't fully finished. The thing is this, that unless you as Chair —

The Chair: If I could read the motion to you, which we are governed by, which was moved by Mr Johnson and passed in the House on June 24: "That notwithstanding standing order 6(a), when the House adjourns on Thursday, June 26, 1997, it stand adjourned until Monday, August 18, 1997, which date commences the fall sessional period."

The former motion of the House, if I recall, says that the public hearings of this bill must be disposed of in the summer session. We're governed by the orders of the House. No matter what members of the committee may feel or wish, we are governed by the order of the assembly and we have two orders that say that the public hearings must be wound up by August 18. That's the problem.

Mr Sergio: I just want to say this: It seems that there is still some doubt if the House will be sitting right through starting August 18. I think it would be proper for the Chair to ascertain for sure that is the case.

The Chair: Mr Sergio, it doesn't matter whether the House is sitting right through or not. The fact of the matter is that the motion that's been moved and passed in the House says that this bill must be disposed of by this committee by August 18, or by the summer session. Do you have the wording of that one?

Mr Duncan: It also gives an escape hatch of November 1.

Mr Gilchrist: No, for clause-by-clause.

The Chair: With respect to clause-by-clause, but with respect to public hearings, I think we're governed by that first order.

Mr Sergio: Unless, Mr Chair, you make every effort to find that out, then we have no other choice.

The Chair: I'll read the other motion that I've referred to, which is a motion that was passed June 2. There are a number of provisions, but one of the provisions says, "That the standing committee further be authorized to meet to consider the bill for eight days during the summer recess." The summer recess will end prior to August 18, so the public hearings must be heard prior to August 18. It's as simple as that. Members of the committee can wish all they want to proceed into the latter part of August or September, October, November, December; we don't have the authority to. We're governed by the orders of the assembly.

Mr Sergio: I hate to say this, Mr Chair. You always have the majority here and you always get your way, sooner or later. It doesn't matter what we say. The thing

is this: I don't see any reasonable effort being made by you, the parliamentary assistant, the members on the government side to try and suit everybody. That is most unfortunate. If you want to sit in July, all of July, three weeks in July, let's do it, but you will not see me here in the first two weeks of August, as we have already made arrangements.

The Chair: Mr Sergio, it's regrettable that you would comment on my actions. I can only tell you I'm governed by the orders of the assembly, as is everyone else in this place.

Mr Duncan: I would propose the last two weeks in July, and let me just be quite candid with you, Mr Chair. From a scheduling perspective, I can ensure better attendance of our members the last two weeks of July than I can the first two weeks of August. We will be there the first two weeks of August, but in the interest of facilitating full attendance, it would certainly make it easier for the official opposition to have its members all present if we do the hearings the last two weeks of July.

I believe that if the government really wanted to make an effort to accommodate, it could. You're the government and you've got your reasons for not wanting to do that. Enjoy it. We'll be there whenever you have it. I just think it's really unfortunate that we're all going to be in an awkward position, whether we have them in July or whether we have them in August. I suspect it'll be a problem for a number of the delegations as well, whether you have them in July or August.

I just think that if you really wanted to, we could have discussed this issue more. I sensed earlier there was a willingness on the part of the three parties on the committee as well as the House leaders. I don't know why we can't do that now. I understand you've got motions in the House. Motions in the House get changed from time to time through discussion, through openness. My amendment is the end of July.

Let me be clear. It will be easier for us to schedule the last two weeks of July than the first two weeks of August. It's unfortunate that we're put in this position. I've spoken with a number of organizations that are giving presentations and they can be ready by the end of July. I just think it's unfortunate that rather than deal with an obvious problem of scheduling people when the House isn't sitting, we're just going to come in, decide on a number of days, force the government members as well as the opposition members to accommodate, for whatever reason, I don't know why, without at least the opportunity to discuss it in a civil manner.

But that's fine. I propose the last two weeks of July. From a scheduling perspective, it makes more sense for the official opposition. I apologize to any government members who have other plans at that point in time, either in their constituencies or holidays, but in terms of being candid with you, Mr Chair, and with my colleagues on the committee, from a scheduling perspective, the last two weeks of July make more sense for us. We will be there the first two weeks of August, but from a scheduling perspective, the last two weeks of July make more sense.

Mr Stewart: I'd like to comment that it doesn't matter whether it's the last two weeks in July or the first two in

August, there are going to be people who have made other plans. So be it and let's get on with this thing. You have two motions on the floor. I would suggest that we call the question.

0940

The Chair: Mr Marchese had his hand up. I'm going to allow Mr Marchese to have the last word.

Mr Marchese: I know you're governed by the motion of the House and that you, as Chair, abide by that. Part of the motion is that we would have clause-by-clause by November 1. The committee can decide which eight days we would be travelling, so there is nothing in there that says, "You will do it before August 18." You are not prescribed by that, Mr Chair. You are not governed by that. This committee decides the dates. I wanted, for the record, to tell you that.

This committee could decide to do it in September, could decide any time in September or after the House adjourns, to do it late September or early October. We could do it then and then have clause-by-clause before November 1. It's the decision of this committee as to the times. This committee, through Mr Gilchrist, the parliamentary assistant, and the other members, have decided in conjunction with the government that they want it before August 18. That's the politics of this issue. I just wanted to put that, again, for the record.

The Chair: Just for the record, Mr Marchese, I'm going to read the House order as passed on June 2. This is with respect to the general government committee: "That the standing committee further be authorized to meet to consider the bill for eight days during the summer recess." That has to be read with the motion that was just passed June 24, which states, "That notwithstanding standing order 6(a), when the House adjourns on Thursday, June 26, 1997, it stand adjourned until Monday, August 18, 1997, which date commences the fall sessional period."

The Chair interprets it that this committee must dispose of its public hearings during the summer session, which ends I guess August 18. That's how the Chair interprets it.

Mr Marchese: Mr Chair, your government is altering the seasons. It altered the season in January. It's altering the seasons again in August. They're deciding what seasons come and go now. That's really the problem.

Mr Joseph Spina (Brampton North): The leaves are going to fall in July.

The Chair: This meeting started some time ago.

Mr Marchese: Okay, Mr Chair, we're ready to go.

The Chair: I think we've had adequate debate. We first of all have Mr Duncan's amendment, which essentially says that we meet during the last two weeks of July. All those in favour of Mr Duncan's amendment? All those opposed? The amendment is defeated.

Interjection.

The Chair: I've been corrected. The amendment to the amendment has been defeated.

The amendment to the report of the subcommittee, just so members are clear, is that the committee meet on August 5, 6, 7, 8, 11, 12, 13 and 14.

Mr Duncan: On a point of order, Mr Chair: I did suggest to the parliamentary assistant —

Mr Gilchrist: Mr Marchese then disagreed with that, so it would have to be another amendment.

The Chair: We're in the middle of a vote here, Mr Duncan.

Mr Duncan: I just wanted to point out that I had suggested that it would be easier again in accommodating, to be sure that we have our members, if we could do Friday, the 15th, rather than Friday, the 8th, but apparently that poses problems for Mr Marchese.

The Chair: It doesn't appear to have agreement, Mr Duncan, so I guess we can't please everyone.

Mr Duncan: Yes.

The Chair: Is everyone clear as to what the amendment is?

Mr Gilchrist: They all have a copy in front of them.

Mr Marchese: On a recorded vote.

The Chair: Mr Marchese requests a recorded vote. All those in favour of the amendment which is before you? It essentially deletes —

Interjections.

Mr Stewart: I'm amazed how you can be so smart, Mr Sergio. You just blow my mind that you're so intelligent with these comments you make.

The Chair: I'd like to vote on this, Mr Stewart. This essentially deletes section 4 of the subcommittee report.

Ayes

Doyle, Gilchrist, Munro, Spina, Stewart, Wettlaufer.

Nays

Duncan, Marchese, Sergio.

The Chair: The amendment is carried. Therefore, I would ask for a vote on the approval of the subcommittee report, as amended.

Mr Duncan: On the report, point 2, my understanding was that what we agreed to at the subcommittee meeting was that the Chair would have the authority to solve scheduling problems around one group or another, not one day or another. If we could just have wording to that effect in the motion, that would satisfy the official opposition.

The Chair: What wording are you suggesting, Mr Duncan?

Mr Gilchrist: Within any day?

Mr Duncan: "That the Chair, in consultation with the clerk, has the authority to solve any scheduling problems within any day."

Mr Gilchrist: That's fine. We have no problem with that.

Mr Marchese: You assumed that was the case. Right, Mr Chair?

The Chair: It appears we're going to have to vote on your amendment, Mr Duncan. All those in favour of Mr Duncan's amendment? Carried.

All those in favour of the report of the subcommittee, as amended? The motion is carried.

Mr Marchese: Mr Chairman, I'd just like to ask for a recess.

The Chair: Sure. That's reasonable. We'll recess for 10 minutes.

The committee recessed from 0949 to 0958.

Mr Duncan: Mr Chair, I've just been informed that the House leaders are meeting today. I'm not certain why they are meeting, but our House leader has agreed to put the issue of scheduling on the agenda for that meeting. I wanted to speak to the parliamentary assistant prior to this session starting, but he's not back yet. I wonder if it would be in order to simply say that we would be prepared to revisit — here's the parliamentary assistant now — the scheduling issue subsequent to that meeting.

The Chair: I'm in the hands of the committee, which, in turn, is in the hands of the House leaders. Your point is taken and we'll see how the day progresses.

TENANT PROTECTION ACT, 1996 LOI DE 1996 SUR LA PROTECTION DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies /
Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

ROBERT LEVITT

The Chair: Our first delegation is Robert Levitt. Good morning, Mr Levitt. You have 15 minutes to make your presentation, which includes time for questions from the committee.

Mr Robert Levitt: My presentation is based upon the written document I submitted today as well as the one from last summer's hearings. My presentation is in three parts: the first clarifies various claims, the second is a historical perspective and the last is advice to assist the government members.

I expect order to be consistently maintained throughout my 15 minutes of allotted time. I was pleased on June 12 at how quickly the four women in the front row were stopped from interrupting, but then nothing was done when Ms Davis-Bonar, who was confined to a wheelchair by MS, was being distracted by the open chuckling by Philip Dewan of the Fair Rental Policy Organization while she was trying to outline issues concerning the disabled.

Part 1, myth versus fact: Minister Al Leach said on June 12, 1997, "All of these protections...remain in place for tenants as long as the tenants continue to live in the apartment." The result of Bill 96 is that many people will be financial prisoners of their apartments. Should they need to move to be close to a job, whether it be a new job or a job to get off government assistance, move due to changing family size, move due to a changing financial situation or to get away from a threatening domestic situation, they are not protected. Conversely, vacancy decontrol in Bill 96 is a direct financial incentive for unscrupulous landlords to force tenants out so they can raise the rents as much as they can get away with.

On that same day the minister said, "If harassment occurs, an enforcement unit in my ministry takes action. And the current maximum fine for...harassing a tenant is \$25,000." The minister's PA, Mr Gilchrist, called the doubling of the maximum fines "staggering." Property standards violations are also being doubled from \$50,000

to \$100,000. Yet in 1996, under this government, there were fines for both harassment and standards violations totalling only \$63,200 for 57 charges, for an average fine of only \$1,109. This amounts to nothing more than a licence fee to permit harassment and violations. Claiming that doubling maximums will fix the problem when no fine ever comes close to maximum is a staggering deception on the government's part.

The government likes to label such legitimate concerns as fearmongering. Yet on March 7, 1997, I attended a landlords' seminar sponsored by Coinamatic, which had Derek Lobo, a Sarnia and Brantford landlord, as its speaker. Mr Lobo did not seem to care about Bill 96, even after it had been out for over three months, because he said you should get as much as you can out of sitting tenants, but before you give them increases, you should test the market with new tenants to see what the market will bear. But the really offensive suggestion he made was that good pet owners will be willing to pay extra rent for their pets and that perhaps \$1 per pound of pet should be added to the monthly rent. I never got to ask Mr Lobo whether perhaps seeing-eye dog owners should be charged even more because they must really want to keep their animals.

Mr Leach said before this committee on June 12, "Rent control has got to go." This has obviously been the goal all along, as Mr Leach has repeatedly stated his goal is to "let the markets control rents." The term John Parker, PC MPP, came up with was "Trojan horse," and that is exactly what vacancy decontrol in Bill 96 is. It's a Trojan horse to make people complacent that they are safe as long as they stay in the very same unit. Either through attrition, since some 70% of tenants move at least once in every five-year period, or by surprise by future legislation that will wipe it out entirely, all real control over rents will be eliminated by this government against the wishes of the citizens.

Of course there are backup methods to emasculate rent controls. To quote one of the pros cited in the June 1996 issue of the landlord lobby group FRPO's newsletter:

"Elimination of the Rent Registry: The absence of a rent registry will make it virtually impossible for any future government to reimpose strict controls based on former rents."

Unlike their newsletter to their fellow landlords, FRPO was less than frank with this committee. They talked about rent controls being harmful and wrote, "Economists are united in their consensus that rent controls ultimately lead to a deterioration in the quantity and quality of rental housing." This statement is completely false. Perhaps this is why they don't even try to substantiate their many claims. Professors of economics Frank Denton, Andrew Muller, PhD in economics, Leslie Robb, PhD, Christine Feaver and Byron G. Spencer, PhD in economics, all of the economics department of McMaster University, completely disagree with FRPO in their report *Testing Hypotheses About Rent Controls*.

This study was an independent statistical study commissioned by Canada Mortgage and Housing Corp, which found that, "There is no convincing evidence that controls affect the responsiveness of apartment unit starts to either vacancy rates or rents" and that, "There is no evidence

that controls increase the proportion of occupied rental dwellings in need of major repairs."

This compares with the Greg Lampert report which, as part of its terms of reference, used an industry report as its basis and had to consult both on September 14 and November 9, 1995, with the following special interest groups: the Fair Rental Policy Organization of Ontario, the Urban Development Institute/Ontario, the Greater Toronto Home Builders' Association, the Ontario Home Builders' Association, the Canadian Bankers Association, the Metropolitan Toronto Apartment Builders Association and the Ontario Association of Architects. Mr Lampert's hands were tied by the ministry's terms of reference and his report had to be based upon the "industry insiders." Nowhere does he say that rent controls caused any of the problems, only that the landlords and builders claim they are a psychological barrier to construction with no evidence whatsoever to back up these claims.

There is simple evidence of the truth in the example of British Columbia. In spite of the claims Mr Leach made last summer that it was the NDP in BC who ended rent controls there, a claim repeated by others in this government, it is not so. This is just another myth being perpetuated by this government. It was in fact the Social Credit government who repealed controls in BC in 1983. They promised the people of BC that thousands of new units would be built and new jobs created — very similar to the unsupported claims Mr Leach made.

In BC just the opposite happened. In 1982, with rent controls about 8,000 private sector rental units were constructed, which then dropped every year without controls to about 1,000 annual units in 1986. Landlords demanded mortgage subsidies from BC, which they got in 1989, but annual construction to this day still has not exceeded 2,500 units, less than one third of the 1982 levels under rent controls. The promised units and jobs never materialized.

There are similar claims that rent controls are the reason construction stopped in the 1970s, but if you look at the chart on page 17 of the Ontario government's own New Directions paper, you will see that construction started plummeting after 1972, three years before rent controls came into effect, but coinciding with the 1972 federal and provincial tax restructuring. It was that restructuring, which eliminated many tax incentives including depreciation allowances and subsidies, that led to the drop in construction. Apartments are not just a commodity; they are part of community infrastructure that was built with the assistance of taxpayers through tax breaks and subsidies.

A University of British Columbia study called Urban Rental Housing in Canada, 1900 to 1985, shows there has always been a shortage of rental housing without government intervention. It is what University of Toronto professor David Hulchanski calls "market failure." The free market will never provide the needed units, especially at the low-priced end of the market.

Rent controls keep on getting blamed for lack of construction, poor maintenance and everything short of atmospheric ozone depletion. But the Urban Development Institute in their speech before this committee blamed items such as taxation, development charges and the cost

of serviced land for the lack of construction. When further questioned, they could only label rent controls as a psychological barrier to construction without providing evidence for this claim.

Just a few weeks ago, the East York building inspector, Mayor Prue, the landlord and the 91 Cosburn Avenue Tenants' Association gathered after an inspection of the building. Jeffrey Wynn, the landlord, said some of the repairs could not be done for two years because he could not afford them. He didn't blame his company's financial woes on rent controls; he blamed it on having just bought an additional 720 units in two buildings in Parkdale to add to their existing 18 high-rise buildings.

Mr Leach says that the annual 10% average profits for landlords over the past 10 years reported in the very respected Globe and Mail Report on Business are false. The government is claiming that landlords are only making 2% to 4%. But on the July 20, 1996, Global Television's Focus Ontario program, Philip Dewan did not dispute the Globe report. He just compared 10% to the rates he falsely inflated for Ontario savings bonds.

1010

I have here some building sales sheets from a PC Party contributor, J. J. Barnicke Ltd, and they are claiming returns on equity of 14.4%, 18.2%, 16.7%, 17.6%, 23.7% and 11%, not the 2% to 4% the government is suddenly claiming. The government is getting so desperate for numbers that might appear to support their position, now they have come up with "80% of apartment buildings are six units or less and are owned by small businessmen..." The percentage of buildings by size is irrelevant, as a very small community might have four buildings of six units and one of 216 units. In this example, 80% of all buildings are the small ones, but 90% of all the units are in the big building. As for being owned by small businessmen, that appears to be another unsupported claim.

I have requested the source of Mr Leach's claims from the ministry, but as has been their habit, they have not answered my inquiry and it appears I will be forced to once again do a freedom of information request to see if there is any basis for these government claims.

Then there is the new tribunal. Landlords can still make whole building applications, but now tenants will be forced to make applications individually for every apartment. This will not speed up the process, as the government claims the tribunal will, unless it is by means of discouraging most tenant applications. Then there is the filing fee, which is not to be waived in any circumstance, which will likely be a barrier to the disabled and elderly, as well as anybody on a fixed income or government benefits. A tribunal with these barriers is no protection whatsoever to the majority of tenants.

Democracy is a slow and inefficient process. Governments whose priorities are efficiency are sometimes less than democratic and honest. Recently when asked by reporters what his favourite book was, Premier Harris said, "Mr Silly." After reading and hearing all the unsubstantiated or outright false and misleading statements being used by the government to support Bill 96, given the misnomer of the Tenant Protection Act, while it removes many of the most important protections tenants presently have, I am led to wonder what books the architects of this misinformation have been reading.

What comes to mind is the book *Through The Looking Glass* by Lewis Carroll and the passage: "But 'glory' doesn't mean 'a nice knock-down argument,'" Alice objected. 'When I use a word,' Humpty Dumpty said in a rather scornful tone, 'it means just what I choose it to mean — neither more nor less.'" Or perhaps, "The great masses of the people...will more easily fall victim to a great lie than to a small one," this latter quote being from *Mein Kampf*.

Part 2, a historical perspective: Those who can't remember the past are condemned to repeat it.

In 1971, Republican New York state Governor Nelson Rockefeller brought in vacancy decontrol, very much like the present Ontario government is doing. Due to the devastating social as well as financial impacts of these changes, in 1973 Rockefeller commissioned a state study into the results of his policies. Data from landlord groups in New York City showed average rent increases of 52% above guideline levels in 1972 for decontrolled units. For poor renters, making up 34% of the decontrolled units, governments ended up assisting these people so they could afford a place to live.

Page 10 of the report says, "The lower-priced rental accommodations experienced the greatest percentage increases under vacancy decontrol, averaging 60.6% city-wide and 74% in both the Bronx and Brooklyn."

The Chair: If I can assist you, Mr Levitt, you have one minute.

Mr Levitt: I thought I had about three more. Anyway, the conclusion of the study was:

"No beneficial side-effects have resulted from vacancy decontrol; major capital investment has slowed, new construction has been unaffected...."

"Vacancy decontrol has placed an extreme hardship on the tenants of this state, particularly on the elderly and the poor, in the form of increased rent and insecurity."

"The vacancy rate of the Metropolitan area is 2.03%, much below that level needed to provide free market competition. The policy of returning vacant apartments to the free market has failed because the free market does not exist in the Metropolitan area."

Governor Rockefeller admitted his mistake, repealed vacancy decontrol and brought back rent controls, but the electorate did not forgive him and for the next two decades there were only Democrat governors elected in the state.

You have already had high-profile Conservatives, such as Mr Keith Norton and Mr Michael Walker, objecting to Bill 96 because they understand what the impacts will be. What will the voters do when they see the negative impacts, not just on tenants but on all property owners, as well as on local businesses?

The Chair: Thank you very much for your presentation this morning. Unfortunately there's no time for questions. I'm sure members would like to question you, but your time has expired.

MULTIPLE DWELLING STANDARDS ASSOCIATION

The Chair: The next delegation is the Multiple Dwelling Standards Association and the presenter is Jan Schwartz. Mr Schwartz, good morning.

Mr Jan Schwartz: My name is Jan Schwartz and I'm the president of the Multiple Dwelling Standards Association, MDSA for short, on whose behalf this submission is being made.

Our organization, which dates back to October 1970, does not represent builders or developers. Most of our members entered the rental housing field as investors, having purchased existing buildings, predominantly older structures. Many of these people put their life savings, or a great chunk of it, as a down payment on a six- or 10-plex. Some others pooled their resources and formed partnerships in order to acquire a 50- or 60-unit building. These investors and landlords came from different walks of life, working in offices, factories, shops, various professions. Many of them still do. Others have enough units to require their total full-time involvement and depend entirely on their rental income.

A substantial number of our members have reached the age of retirement and their rental income represents either their sole or primary source of income. A considerable number reside in their own buildings. In fact, the smaller the building the more likely it is to be owner-occupied. Contrary to popular belief, the bulk of the province's rental housing stock is owned by such small-scale landlords rather than by large corporations of builders and developers.

Last summer, the housing ministry released an information package with rather revealing data: 80% of rental buildings in Ontario are made up of four or fewer units, indicating that the bulk of landlords own small buildings, and only 23% of rental units are found in large, high-rise buildings of 100 or more suites. Unfortunately most of the small-scale owners do not possess the financial, technical or management sophistication of larger corporate landlords. Nevertheless rental housing has been an accepted part of the investment activity in this province for many years.

However, an unexpected turn of events took place in 1990. A new government emerged in Ontario with quite different ideas about the structure of ownership in the rental housing field. The impact of the NDP rent control legislation was particularly harsh on the smaller landlords who didn't have the means to survive the blows delivered by the retroactive Bill 4 and the Rent Control Act, 1992, which remains the law of the land to this very day but hopefully for not much longer.

The proposed new Bill 96 is a definite improvement over the current law but it fails to recognize the realities of the present market condition. Five years ago we would have embraced such a bill enthusiastically. However, our concerns today are not the same as we had in 1992.

1020

The vacancy rate is the highest in many years, particularly in older buildings. In many cases, when a unit is vacated, the landlord has to lower the rent or take chances on borderline applicants. This in turn results in increases in bad debts. Above-guideline rent increases, for all practical purposes, have disappeared. A vast majority of rents across the province, including Metro, are now below the maximum level.

Obviously, the market has become the ultimate protector of tenants. The market has done a better job in this

respect than any of the rent control systems in the past, including the current one initiated by the Rae government. In view of this, it is hard to comprehend the argument that upon vacancy decontrol rents will go right through the roof. Such talk is nothing but scaremongering propaganda. Although the turnover is the highest in many years, landlords are lucky these days if they can rent a vacant unit for the same rent the previous tenant paid. As for the units with chronically depressed rents, unfortunately tenants in those units sit tight. They hardly ever move. Why give up the bargain of a lifetime? Most of the turnovers occur in the higher-priced units and the market forces take care of the overpriced cases. And that is how it should be.

The only cases where the market is powerless are the cases of certain buildings or individual units with chronically depressed rents. And this is one case where Bill 96 does nothing about it. A number of buildings have two-bedroom units where the rent is cheaper than some one-bedroom apartments. Surely a way could be found to eliminate such inequities. Under the Liberal regime they introduced equalization for similar units in a certain given building. Why perpetuate something obviously wrong? Why not even try to fix it? How would you feel or how would anyone feel if you paid \$800 a month for a two-bedroom apartment while your neighbour next door paid \$715 for a three-bedroom apartment?

Now some comments about section 122 of Bill 96. When the consultation paper entitled *New Directions for Discussion* was released last summer, one of the proposals seemed particularly attractive to small-scale landlords with a limited number of rental units. In smaller buildings, the relationship between landlords and tenants is more personal and quite different than in high-rise complexes. Although rent increases above the guideline are not permitted under the current law without filing a proper application, it is not uncommon for a tenant and landlord to agree between themselves to an above-guideline increase in consideration of certain improvements to the unit, such as, for instance, a new frost-free refrigerator, a new counter top in the kitchen, carpeting, painting etc. In this example, an increase of \$60 a month, or 10%, on a rental of \$600 made good sense to both parties.

In the past, we at the MDSA discouraged such arrangements for two reasons: First, they were unlawful, and second, they could backfire if the tenant at some future date refused to honour this gentleman's agreement. Now, at last, it is being proposed for the first time in over two decades to legitimize such agreements made voluntarily between tenants and landlords.

To us, it looked like common sense had prevailed at last. After all, why should the government intervene when both parties to an agreement are satisfied with the deal? The five-day cooling-off period seemed fair enough. However, the imposition of a 4% cap, plus the requirement that no such agreement can be made before 12 months have elapsed since the last rent increase, make this entire section redundant. To make this great idea workable, the two handicaps — the 4% cap and 12-month waiting period as outlined above — must be removed.

Now I'm ready for some questions.

The Chair: We'll start with the Liberal caucus.

Mr Duncan: How much time, Mr Chair?

The Chair: We've got time for a couple of questions each.

Mr Duncan: For a small investor, let's say for somebody perhaps like yourself, when they initially invest, in your statement you said they would perhaps use their life savings as a down payment and then I presume finance, either through a bank or other financial institution, a mortgage to pay off the balance of the purchase price. What is the impact of declining interest rates on the financial statement of a small landlord, say, as opposed to a rent increase?

Mr Schwartz: The mortgage is running until it matures. If somebody has a mortgage which just happened to expire at this point, obviously there will be the benefit of a lower interest rate.

Mr Duncan: Can I just ask one other question? I've never invested in a property. When you take out a mortgage for an investment property like this, is the interest rate renewable? Can you get different renewal periods, one year, three years, five years, the way you can on a homeowner's mortgage or is the financing different?

Mr Schwartz: In most cases, I would say a mortgage would run 10 years or five years. It depends at which time you started.

Mr Duncan: Do you have the same flexibility a homeowner has when you renew your mortgage, a one-year period or a two-year period?

Mr Schwartz: In some cases it could happen, but that's not the majority of cases.

The Chair: Mr Sergio.

Mr Sergio: Do we have time?

The Chair: Yes, you do.

Mr Sergio: Just a quick one. I guess every investor when they purchase a property for investment purposes expects some return on their investment, even though they may say, "It's a long-term investment." When you purchase that property, you would make arrangements, as a wise investor, to see that year after year you prepare for those necessary repairs, even though legislation allows you, the landlord, a 6.8% increase automatically every year. Would 6.8% be a good return? Would that give you the possibility to maintain your buildings?

Mr Schwartz: When you buy an apartment building, you take on a lot of risks such as you could not foresee when you bought the building. I'll give you two examples. One example is vacancies. There was a time when there were very few. Today it's a completely different picture. Today vacancies have increased. For the last year or two, they've been going up and up. If you have a number of vacancies in your building, then your whole initial calculation is out of whack. Second, breakdowns, especially older buildings. Most of the members in our organization have buildings that are 50 years old, 40 years old, even older, and things break down. Again, you cannot foresee everything.

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Mr Sergio: Under the proposed legislation today, a municipal inspector can come in and say, "Your building is deficient in these particular areas," and he's going to

give you a summons immediately, without warning, without time limits. He's going to say: "You've got to fix it. There's a fine for you, because you're not maintaining your building." Under the proposed legislation, that municipal inspector doesn't want to know your vacancy in the building, if it's 70%, 10% or whatever. Your building is deficient; therefore you are guilty of not maintaining your building. What do you say to that?

Mr Schwartz: That's terrible.

Mr Sergio: Scary?

Mr Schwartz: Sure it's scary.

Mr Sergio: Are you saying you don't like this part of the legislation the way it's being proposed?

Mr Schwartz: Look, today the market rules —

Mr Sergio: Are you familiar with that part of the legislation?

The Chair: Give him a chance to respond.

Mr Schwartz: Today it is just like it used to be many years ago, before rent control ever came into the picture. What does an owner do if all of a sudden he's being hit with some major problems? The roof is leaking so badly that he can't fix it any more, he's got to replace it, and the electrical system, the plumbing system — it can happen all at once. In the pre-rent-control days you didn't have some place where you could apply for a capital expenditure and get an increase. The market was controlling the rents. The situation today is very similar to the way it used to be before 1975.

Mr David Turnbull (York Mills): Mr Schwartz, welcome to the committee. I know you have presented to many committees in the past, and I'm aware that predominantly your membership is the people who own older buildings and particularly smaller buildings.

Can you perhaps clarify for the committee the aspect of the fact that some years ago some landlords wanted to set up sinking funds in order to repair buildings and that Revenue Canada disallowed that and therefore forced landlords always to contemplate paying for renovations out of their current income and only after they'd actually repaired the buildings? Could you further comment on what the impact will be on a chronically depressed building, given the fact that they have a cap of 4% on repairs?

Mr Schwartz: A free market can be cruel. You're talking about a 4% cap on capital expenditures, which is better than 3%, which is what it is today, and it's better in other aspects as well. But if the market tells you that you can't get more than a certain amount, what do you do? You're in a tough spot.

Mr Turnbull: But on a chronically depressed building —

Mr Schwartz: People with chronically depressed units, the way it is set up now and has been for many years, they're stuck in an impossible position, because their rents are so low compared to similar units in the area that it's most unfair. I did mention here that this bill did nothing about chronically depressed rents.

All our thinking is still dated back to the days where the market would allow you more and if you needed more above the guideline, you applied for capital expenditures. This whole picture has changed. I had to replace a roof two years ago and I decided not to apply because

I didn't want to upset my tenants. Most of my rents were at the market level. Sure, I had about 10% which you might describe as chronically depressed, but for the sake of those few I wasn't going to jeopardize my relations with the rest of the tenants.

The worst thing for me would be that they start shopping around, because we're in competition with newer buildings. My buildings don't have underground parking. They don't have air-conditioning. They have just a fridge and a stove, no other appliances. Anybody who wants to shop around can find something newer and possibly cheaper, so for me to disturb them with just the mere fact that I'm making an application would be suicidal.

The point I'm trying to make today is that we are in a different world today. The market is controlling the majority of rents. Only 10% or 15% at the most of chronically depressed are being controlled by the legislation. The rents may be 20% below market and there's nothing you can do about it.

The Chair: Thank you, Mr Schwartz. Your time has expired, but you've certainly stimulated some questions. Thank you for coming.

CANADIAN PENSIONERS CONCERNED, ONTARIO DIVISION

The Chair: The next delegation is the Canadian Pensioners Concerned, Ontario division; Gerda Kaegi and Mae Harman.

Ms Gerda Kaegi: I'm Gerda Kaegi. Beside me is our president, Mae Harman. I'm going to do the presentation on behalf of Canadian Pensioners Concerned. What I'd like to do is speak to the recommendations we've made. I know you have the documents before you, so I'd like to go into some of our concerns and not just repeat what you've already got in writing.

At the heart of our issue is the conflict between the needs of tenants and the wishes and needs of landlords, and at the heart of this conflict is the health of our communities, the health of our fellow citizens. We do accept that there is a vital role for the market or private sector to play in the development and provision of housing. However, we see housing as a right, as a necessity of life itself, thus we also see a role for the community and the state in the provision of this human necessity. Given these views, we are making the following arguments about Bill 96. I hope that after I've given our overview of the issues, perhaps we can have some discussion.

We believe the Legislature must play a key role in developing the policy in this area. We are addressing clause 3(m), exemptions from landlord and tenant protections, with this recommendation. We argue that any future changes to the classes of accommodation exempted from the protection of this legislation should be brought to the Legislature and the public given a voice, such as we are having today. Therefore, we recommend that the regulatory power should be limited to not bringing in exemptions from the landlord and tenant protections; that they should be brought in, if necessary, as amendments to the legislation.

Second, as stated earlier, we see housing as a right that every citizen should have access to. If citizens cannot meet the demands of the market, we as a society must ensure that they have access to safe, affordable housing. The market will produce to meet market demands and where the producers can maximize the return on their investment. In recommendation 2, we argue that only through the retention of fair rent controls will we be able to ensure that all citizens will be able to have a home.

This has become even more important today because of the withdrawal of the federal and provincial governments from the field of social housing. Therefore, we argue that rent controls should be inclusive. We suggest that new units might be granted a grace period of exemption, but ultimately they should be covered by the legislation.

Recommendation three: We are very concerned about the well-documented practice of some landlords to discriminate against certain types of tenants: people on welfare, single-parent mothers, low-income families and low-income individuals. We understand the need of the landlord to protect his or her investment. However, we argue in recommendation 3 that Bill 96 would strengthen the hand of those discriminatory landlords by giving them the right to income information on prospective tenants. This is totally unacceptable, in our view. There's a very interesting story on the front page of today's *Globe and Mail* that highlights this issue. We recommend that the term "income information" be removed from sections 36 and 200 of the bill.

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Recommendation 4: We have been living with a severe shortage of safe, accessible and affordable housing, particularly for people with disabilities, pensioners and all those with low to modest incomes. We argue in recommendation 4 that we must retain the Rental Housing Protection Act until there is an acceptable supply of rental housing to meet the needs of our citizens. We argue, furthermore, in recommendation 4 that the government should develop ways to ensure an adequate supply of affordable rental accommodation to meet the needs of populations that cannot pay market rents.

In recommendation 5 we are making a similar argument. We believe that irreparable harm will be done to the stock of affordable rental housing if you agree to vacancy decontrol through the inclusion of section 116. We argue that this clause will do nothing to create new rental housing, and developers have said the same thing. We ask for the elimination of this clause.

What I would like to do is turn to our concerns about care homes. We have been arguing with government after government that their legislation in this area is very discriminatory, that residents or tenants in care homes are not given the same right to the consideration of the state and society as other tenants receive. Let me explain.

Recommendation 6 repeats a concern that we have held for a number of years. The whole field of care homes is diverse and confusing. We desperately need to have the government bring clarity and certainty into this area. We therefore ask that the legislation define exactly what a care service is and we urge you to use the current

regulations covering the care home information package as the minimum list of services.

Issue number 7: We are puzzled by the suggestion that the exemption for rehabilitation and therapeutic services from the landlord and tenant protections should be extended from six months to a year. If someone lives in such a facility for even six months, they are likely to have no other home. We are concerned that unscrupulous landlords could use this new proposal as a way to exempt their homes' facilities from the application of the act. Our recommendation 7 calls for the retention of the current wording limiting the time to six months.

In recommendation 8, we are very troubled by subsection 92(1), the notice of termination, demolition, conversion or repairs. Once notice has been given for the termination of the tenancy on grounds of demolition, conversion or repairs, the landlord is required to "make reasonable efforts to find appropriate accommodation for the tenant."

In recommendation 8, we argue that the landlord be required to find comparable accommodation and the tenant must be willing to accept it. An appeal process could be designed that would ensure that tenants and landlords will follow the intent of the legislation.

Recommendation 9: The idea that a landlord would be given the power to determine whether a tenant should be transferred to another home horrifies us. We argue in recommendation 9 that we believe this clause is clearly discriminatory. It even violates the practices and procedures in place today that govern the determination of the needs of an individual for care services and their placement in a care home. No one can be placed in a facility without their personal request for such a placement. Furthermore, this power could be used to intimidate vulnerable residents. I think everyone is aware that tenants in care homes tend to feel very vulnerable and dependent on the goodwill of their landlord.

Recommendation 10: We find subsection 95(1) to be highly discriminatory by denying residents of care homes the protection given to other tenants against increases in charges related to their accommodation. A non-care-home tenant can only face a rent increase over a 12-month period. Care home tenants, according to the proposals in Bill 96, could face three to four service charge increases over the same length of time. The bill only requires that a landlord give 90 days' notice of an increase. Our recommendation 10 calls for the elimination of such a clearly discriminatory policy.

Finally, in recommendation 11 we go on to request that section 95 be amended to include the current protections found in subsections 9.1(1) and (5) of the Rent Control Act whereby a landlord cannot give notice of rent or service charge increases if the tenant has not been given a care home information package. We believe the inclusion of such a clause will go a long way in ensuring that landlords do give their tenants this very important information package.

Thank you for your time and attention. I have tried to highlight the issues and the thrust behind the recommendations we have made in hopes that we could perhaps have some discussion.

Mr Marchese: Thank you very much for the presentation. This government says that with this bill they're restoring balance because there hasn't been balance in the past with rent control, that tenants were given an unfair advantage, I guess, over the landlords and this restores that balance. How do you respond to that? They do say that.

Ms Kaegi: We have been very clear, even going back to the presentation we made on Bill 120 and the comments we made to the discussion paper that preceded Bill 96, that we do not accept that argument. In the past, there have been steady increases allowed to landlords to pass through the costs of renovations, to pass through the costs of maintenance. We believe landlords are protected, just as tenants need to be protected. We do not believe this restores a balance. We believe it in some cases creates a greater imbalance. We do recognize, however, that there has been some tightening up of protections for tenants, but the balance is not there.

Mr Marchese: I just wanted to say that this government wants to hold hearings on this bill, and they're going to be doing it on August 5, 6, 7 and 8, 11, 12, 14, and 15, before they bring the summer session back on August 18, something we haven't ever done before. I wanted you to know that so you might inform the people you're connected to that August 5 is going to be here in Toronto and that they might want to come by and talk to the parliamentary assistant and to these other fine fellows on the other side about how they feel, whether they feel protected or not protected by this bill. I thank you very much for coming.

Mr Gilchrist: Thank you both for coming before us here today. You certainly have a very full set of recommendations. I appreciate that, and I can tell you that we and the ministry staff have certainly made note of that and we'll take into consideration all your recommendations. But I'd like you to clarify a couple of things if you would, please, in the very limited time we have.

You made a specific reference to the income checks but you didn't comment on the other aspects of that section. Is it your submission that other business practices such as asking for landlord references and credit checks as opposed to income checks, that sort of thing — that you believe that's appropriate and it's only the income check that you're suggesting is inappropriate?

Ms Kaegi: In the more fully written presentation, yes, we have accepted that the other checks are appropriate. We also, though I didn't put it in the written submission, know that landlords now are in fact asking about income. This Globe and Mail article highlights the problem about the use of income checks in particular. We don't express a concern about the other checks that are available.

Mr Gilchrist: The only other thing — and I sincerely would like your views on this. You started your presentation by saying, and the word may be abused, that housing is a right. How do you reconcile that with the current legislation, if it is your submission that the status quo — or is it your submission that the status quo is acceptable, in light of the fact that in all of Metro last year only 37 new units were built and in all of Ontario only 1,420? With 120,000 more people moving to Ontario, how do you reconcile those two things, that the marketplace

under the current law is not providing housing for those people, particularly at the lower end of the spectrum?

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Ms Kaegi: I can respond by informally responding to the discussions I've had with members of the Urban Development Institute and others in the development industry. They have argued since the 1970s that there have been other strategies in terms of housing development, in terms of investment of capital, that have provided greater returns, faster returns, rather than the rental market. So there are a multiplicity of reasons for the lack of development of rental accommodation. No one could attribute the creation of rent controls as a limit on that market, and they themselves do not make that argument.

Mr Sergio: I thank you very much for coming down and making a presentation to our committee. I have a number of questions, as you have expressed a number of serious concerns. Let me say that these concerns have already been expressed by a number of other deputants. I just want to touch on a couple of things, if you can expand on them. First of all, has your group been consulted or contacted by the ministry for some input into the proposed legislation? Have you met with the minister or staff?

Ms Kaegi: We made a submission on the discussion paper that was released prior to the presentation of Bill 96. We have made deputations in the past. I have tended to hold the housing portfolio for Canadian Pensioners Concerned. I can turn to our president to see what other forms of consultation were raised.

Miss Mae Harman: No, we have not been approached.

Mr Sergio: Just one quick question, because I know we haven't got too much time: Especially with recommendation 9, concerning the impact on rent related to nursing homes and stuff like that — let alone that the concern with nursing homes has been expressed with the cuts and downloading, how it affects the health care system, now we're going to housing as well — when you talk about the increase in charges and stuff like that, because of the various actions of the government, owners of nursing and retirement homes are faced with unprecedented, unexpected extra charges, if you will, from the local municipalities with respect to hydro, water rates and stuff like that. Those are charges that an occupant, a tenant of a nursing home or retirement home, will not see until the owner of that house comes and says, "You've got to pay another \$100 a month." How does that affect the occupant?

Ms Kaegi: The point we are raising is that the tenants and residents of care homes are treated differently, because a tenant in an ordinary building can only have an increase in the charges once a year, but the charges for services — for food, for nursing, for whatever — can go up every 90 days if you push it to the extreme. The cost of labour in terms of food production or nursing is not going up every 90 days.

What you are doing is allowing a landlord in these situations to essentially, as we say, constructively evict tenants. You can escalate the charges higher and higher so somebody is forced to move. We've had examples of this. I can go back to one in Toronto, the Grenadier. I

notice George Monticone from ACE is here. I remember the long dispute of people who were forced to move out of a place they had just moved into because of the massive escalation of the charges. We feel it is clearly discriminatory. I hope I answered your question.

The Chair: Mr Sergio, we've run out of time.

Thank you, Ms Kaegi and Miss Harman, for coming this morning and making a presentation.

DAVID HULCHANSKI

The Chair: The next presentation is David Hulchanski. Professor, good morning.

Mr David Hulchanski: Good morning. I brought with me today my daughter Anna, a future tenant.

The Chair: Good, we need her help.

Mr Hulchanski: She finished first grade yesterday. She was walking around the building and I think very smartly picked up a brochure called: "Yes, you can mortgage. How to become a homeowner." That's in essence what I'm talking about, and I think I'm essentially answering a question Mr Gilchrist asked of the last speaker.

I have some copies I've circulated before of my presentation in August of last year to this committee, when I talked about the impact in British Columbia of removing rent controls. That information is in this other presentation; you can look at it if you want.

Today I'm switching the discussion a bit to macro-level issues and asking you the big question, what is the rationale for residential rent controls and what is the relationship of rent controls to new construction? This is really at the heart of what is happening here and now with this proposed legislation.

I was asked this question back in 1983 by the Ontario Commission of Inquiry into Residential Tenancies, and I wrote research report number 6 for the commission, entitled *Market Imperfections and the Role of Rent Regulations in the Residential Rental Market*, a nice long academic title. What it talked about back then was the beginnings of what I thought was market failure; I simply called it "market imperfections" back then.

When there is inadequate market demand and thus little new supply in the rental housing sector, vacancy rates remain low and tenants require adequate regulations to provide some degree of balance in the landlord-tenant relationship. The normal market dynamics of supply and demand no longer protect tenants from rent gouging or widespread discriminatory behaviour. There are no normal market dynamics happening in terms of supply and demand in the rental market. Bill 96 is based on the assumption that there are normal market dynamics waiting to be unleashed once the shackles of inefficient regulation are removed.

Given the failure of the supply part of the rental housing market in the early 1970s in Ontario, there are four rationales for rent regulation. This is what I wrote back in 1984. These four things — protection of security of tenure, maintenance of the affordability of the existing rental stock, prevention of regressive income redistribution and mediation of conflicts relating to rental tenure, including protection from discrimination — are essential-

ly what the current landlord-tenant and rental housing stock legislation seeks to do.

Rent regulations are a response to market failure. Ending rent controls will have no positive impact on the rental housing supply problem. Macroeconomic factors, not a set of regulations, have caused the rental supply problem.

There is nothing inherently good nor inherently bad about rent regulations. I want to make that very clear. I know of no researchers who support rent controls in principle. If conditions in particular rental markets require them, fine; if not, fine. It is an empirical research question. For some, I know it is a matter of ideology, a set of beliefs and/or economic self-interest. The evidence about real housing markets and real tenant households does not matter for some. The objective public policy question, however, is whether a particular set of circumstances requires a particular set of regulations.

The rental sector problem in Ontario is the near total lack of private sector rental housing construction. This was just referred to. Last year, there were 931 private sector rental units built, but they were either investor condos or something called life leases. Ontario has about 1.3 million renter households. The 900 units are just 2% of total housing starts. Social housing starts were also just 2% of total housing starts, down from 28%, and it will of course soon be zero, thanks to the termination of social housing construction.

My message today is a very practical and pragmatic one: We must pay attention to the economic realities of new investment in rental housing. That's the key thing. What are the realities about new investment in rental housing? We must pay attention to the economic realities of what tenant households are able to pay for their housing. These two do not match. There is a very big gap between the two and the gap has grown since the 1970s.

My first point is the existing rental stock and the potential for new supply. There is virtually no relationship between the current owners of existing rental stock and potential new investors in rental housing. The gap between the risks and the profitability of investment in existing rental stock and new construction is huge. They are two different types of investment. They're not connected any longer.

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In terms of the existing and now aging stock of rental apartment buildings, the regulations over the past 25 years have succeeded in maintaining these buildings as an excellent investment for those with the money and inclination to buy and manage rental properties. There are continually articles in the business pages about what a good deal existing rental buildings are. Even in RRSPs now and for senior citizens and for people to invest for retirement, there is a very strong market for these buildings as medium- and long-term investments.

A recent study for the Metro Toronto council's housing stakeholders' panel just a few months back called *Prospects for Rental Housing Production in Metro* compared the economics of existing and new rental buildings. There are pro formas in that report. They compare them very carefully. The study found that returns are substantially higher for existing buildings, and compared to new rental

project scenarios, there are very few risks in the existing buildings.

The report states very clearly, "There appears to be little prospect of new rental housing development." This is even recognizing that this legislation will likely go through, that rent controls won't exist. "There are concerns that severe shortages could occur, with attendant negative consequences for tenants, particularly those with lower incomes.... The potential returns from investment in new private rental properties in Metro are extremely poor." About half of Ontario's tenants live in the greater Toronto area.

The main point in that report is, "Without changes which result in higher returns from new rental projects, there will be little new private rental investment in Metro." The report goes on about the variety of things that need to be done. Some are giving special treatment to rental housing, some are ending unfair treatment to rental housing, some involve massive subsidies, frankly.

In short, there is no private sector rental housing development sector in Ontario today and there will be no private sector investors interested in rental housing construction unless massive subsidies are made available and a variety changes are made in the treatment of rental housing. The problem with rental supply is first and foremost an economic problem. The financing numbers don't work. That's the whole issue. The financing numbers don't work, and this legislation doesn't affect the financing numbers.

Why don't the financial numbers work? That's my second point. This is the difference between market demand and social need. Markets respond to market demand, not social need. About one third of all tenants in Ontario are receiving social assistance. The median income in tenant households is about half that of owners. Using the Toronto CMA as an example, the real income of tenant households declined by 8% over the past 20 years, it declined in real terms by 8%; that of homeowners went up by 20% in real terms. How can you have a market in something very expensive when the consumers can't afford it and they're losing money on top of that? The item is becoming more expensive and the potential consumers have even less money than they had 20 years ago. That's the crux of the problem.

In 1991, tenant households in the Toronto area had a median income of \$33,000, while owners had a median income of \$64,000, a gap of \$30,000. The supply system for homeowners works because homeowners have money to stimulate market demand. The supply system for tenants doesn't work because most tenants don't have enough money to stimulate economic demand. They simply have social need.

My final point, and it's sad I even have to raise this in conjunction with landlord-tenant legislation, has to do with discrimination by some landlords, and I emphasize "some." Not all landlords discriminate, but there are more than enough who do, and that's why we have protections in the Human Rights Code.

Many of the larger landlords and property management firms in Ontario have been engaging in what is known in economic literature as statistical discrimination. This is a term used to describe the judgment of individuals based

on group averages instead of their individual characteristics. Some alleged propensity of the group is applied to all members of that group and then they're rejected.

The use of minimum income criteria is a very simple, convenient and easy-to-use excuse for screening out individuals some landlords consider to be from inferior groups on the basis of negative stereotypes and prejudices that exist in our society. If there was any validity to the simple rent-to-income ratio as a determinant of risk, we would need to ask why, on a continual basis for as long as such data have been collected — and I've looked at it since the 1930s — a substantial number of Canadian renter households have managed to spend a huge percentage of their cash income on rent and not default on their rent. I have a table, table 2, at the back of my paper.

The 1991 Canadian census reports that one third of Ontario's renter households — that's about 400,000 households — pay more than 30% of their income in rent; 15% — 200,000 households — pay more than 50% of their income in rent. How do they manage to do this? They should be evicted or starve or what? They do it by all kinds of ingenious measures. If the housing expenditure-to-income rule of thumb, based on this 30% or 35% of income, is valid and reliable, close to 200,000 households will be facing eviction right now, on the 50% line. Where's the logic to this? The reason for the absence of massive defaults is abundantly known. The rent-to-income ratio is not a valid predictor of risk.

Further, it is important to note that the risk of default is relatively small even though so many current tenants are paying well above 30% of their income on housing. A study by N. Barry Lyon Consultants a year or two ago points out that in the Toronto area the risk of tenant default was found to be "relatively insignificant as a determinant of the viability of a residential rental business." Bad debt was found to be about 1% of gross revenue. Court fees and eviction service fees represent 0.1%, one tenth of 1%, of gross rental income and arrears represent about 0.3%, three tenths of 1%, very small numbers. Even if these were to double or triple, they would have a very small impact on renting. Vacancies for a few months can add up more quickly to those numbers.

The issue before us in sections 36 and 200 of Bill 96 is not financial risk but the freedom to discriminate. Some landlords do not like the protections offered to some groups by the Human Rights Code and they selectively apply income criteria as an excuse in rejecting some tenants. The evidence indicates that it is the larger landlords and property managers who selectively use income criteria. They arbitrarily select a rent-to-income ratio and selectively apply it to some households but not to others. Smaller landlords, those with just a few units, tend to have no idea what income criteria are. This is, in effect, economic jargon.

My research indicates that it was after the Human Rights Code was amended in the early 1980s prohibiting discrimination against people on social assistance that the use of income criteria became an increasingly common practice by the larger owners and managers of rental housing.

In summary, what will Bill 96 do? There's a term I heard in a meeting a year ago called "dehousing." There

is already a process of dehousing taking place in Ontario's larger cities. Growing numbers of individuals and families who cannot afford to pay rent any longer find themselves doubling up with others for a while and/or in rooming houses, emergency shelters or on the street. Bill 96 will harm the most vulnerable tenant households in the province. It will result in greater homelessness.

The certain impacts of the government's proposals include rising rents, the transfer of a huge amount of money from tenants to owners. For example, if only 20% of the renters in Ontario pay only \$50 extra as a result of this legislation — only 20% and only \$50; pretty conservative — that adds up to \$156 million being transferred from tenants to owners. What will they get in exchange? Nothing. Everything stays the same. They're living in the same place; they're paying more. Nothing changes. As I noted, there's no connection between the existing stock and potential new investors; new investment, the numbers don't work. This bill isn't going to change that.

Finally, Bill 96 is a one-sided caving in to one interest group: owners of existing rental buildings. It will mainly harm low-income Ontarians. The bill is yet another example of mean-spirited treatment of the group whose crime seems to be having a low income. This legislation will hurt many young adults, older people, immigrants and refugees, single mothers, people with disabilities and all people on social assistance. These low-income households have no choice but to rent in the private sector. The government is not building more social housing and, as I have pointed out today, this government is not addressing the economic realities of why rental housing construction is not taking place. That's the key thing. Let's address the economic realities of why rental housing construction is not taking place.

In summary, the rent control system and the related tenant and rental stock protections that currently exist are a response to the problem of inadequate rental supply; they are not the cause of the problem. This committee should recommend that this legislation be scrapped and that new proposals for rental housing supply be brought forward. The system of regulations affecting the existing rental stock does need to be reviewed and amended, but such amendments must be based on a careful assessment of contemporary realities. There shouldn't be a throwing away of 25 years' experience in developing landlord-tenant legislation and rental housing stock legislation.

The Chair: Thank you, Professor Hulchanski. Unfortunately, there is no time for questions, but I'd like to thank you and Anna for coming and making your presentation this morning.

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CITY OF TORONTO

The Chair: The next delegation is Kay Gardner, councillor of the city of Toronto. Good morning, Councillor Gardner.

Ms Kay Gardner: Good morning, Mr Chairman. Here we are again.

The Chair: Here we are again, and some of your material has been distributed to us.

Ms Gardner: I have with me Pamela Coburn, who's the director of inspections and the chief building official for the city of Toronto. She'll want to deal with inspections and maintenance, which is a big part of this bill. I will speak and then she will make a presentation, and then you can direct all your important questions to her.

I've been asked by Mayor Barbara Hall to present formally to you Toronto city council's submission on Bill 96, the proposed new landlord-tenant legislation. I would like to add here that at our last council meeting, which was on Monday and Tuesday, where we turned down the Maple Leafs, we condemned you most severely for this legislation, unanimously also.

The Chair: I'm not sure whether that's a compliment or what that is.

Mr Marchese: That's a condemnation of you guys.

Ms Gardner: The government. Are these the good guys on this side? I want to know which are the good guys.

Mr Marchese: The good guys are over here.

The Chair: We're all good guys.

Ms Gardner: This report was prepared by the city of Toronto's commissioner of community services, Mr Tom Greer, in concert with our housing department. This brief is a superb and trenchant analysis of the cruel and all-out attack on Ontario's tenants embodied in Bill 96.

In one fell swoop it destroys 25 years of work by three successive governments of Ontario — the Conservatives under Bill Davis, the Liberals under David Peterson and the NDP under Bob Rae — to enshrine in law a code of protection of tenants' rights and welfare. This savage attack on tenants offers not a shred of protection for tenants. What a cynical name this bill has been given: the Tenant Protection Act. This act is in fact a measure that will impoverish tenants while it enriches landlords.

Our report states that the bill will produce higher rents and reduce security of tenure, a clear potential cause of an increase in homelessness, as well as a serious reduction in the stock of affordable rental housing by easy conversion of apartments to condos and the demolition of apartments to be replaced by luxury units or by large-scale renovations as an excuse to send rents to the moon.

I ask you to mark the fact that our existing framework of tenant protection was erected not solely by government action but by the struggle of tenant organizations such as the Federation of Metro Tenants' Associations, the women's movement and literally dozens of grass-roots tenant groups in every neighbourhood in the cities of Ontario. They will not take lightly to being raped by Bill 96.

One argument in favour of Bill 96 made by the Minister of Housing, Mr Al Leach, is that it will enhance better maintenance of apartment buildings. Ms Coburn is going to speak on that, but this is false. It will do the opposite. The present provision of imposing a rent freeze on apartments where municipal work orders are not fulfilled is to be abolished, so dirty apartments will become dirtier and run-down apartments will become more decrepit.

What is the ultimate purpose of Bill 96? The purpose of Bill 96 is to destroy rent control and to destroy all important legislation which protects tenants. Yes, this is

an act to destroy rent control. Even the rent registry is to be thrown into the trash can. This is an invitation to unscrupulous landlords to gouge tenants by charging illegal rents, because only by consulting the rent registry may a tenant find out whether he or she is paying an illegal rent. While compassionate men and women everywhere in Canada are demanding that governments act to alleviate child poverty, Bill 96 callously creates a law to deepen child poverty.

I do not, of course, have sufficient time to read the entire city brief into the record, but I ask you, I plead with you to read every word yourself. This, after all, is a bill that will impose severe hardship and anxiety on thousands, yes, thousands of our citizens. Some 64% of households in the city of Toronto are tenants. Read particularly on page 2 the section headed "(b) Other Proposed Changes," itself a condemnation of this act. I especially ask that you read carefully the chart on pages 3, 4 and 5, which in a nutshell shows how the act guts tenant protection legislation.

Before I leave I want to say one thing. I have spent 22 years in the tenant movement, 10 years as a volunteer organizing and 12 as a city councillor. You had not, when you were elected, promised the people in Ontario that you would abolish rent control. I plead with you to look upon this legislation with the eyes of reason. You still have time to say, "We were wrong." It is not cowardice to say you were wrong. I think it is noble to acknowledge when you have made a mistake when thousands of people are pleading with you to please look again and act wisely and compassionately. Thank you for hearing me out.

Ms Pamela Coburn: Good morning. Thank you for the opportunity to speak today. I, as Councillor Gardner indicated, am the director of inspections and chief building official for the city of Toronto, and in that capacity I'm also responsible for enforcing property standards. I appear before you today not as a politician but as a practitioner. I'd like to share with you some of my experiences in attempting to enforce property standards in the very large numbers of rental residential properties we have in the city of Toronto within my area of jurisdiction.

The goals and objectives of the staff and the legislation, in my view and, I believe I can fairly state, in the view of my colleagues, is a vehicle to ensure that properties are maintained properly. They provide the home for large numbers of people in our city. They provide an economic interest for the owners of those buildings. The position we work from in terms of resolving problems in ensuring these buildings are maintained is that everyone has a common interest and a common goal in making sure these homes and this real estate and this economic value is protected. We approach all our enforcement and inspection programs in that fashion.

It has always been, since the early 1970s, the position of Toronto city council that prosecution is an absolute last resort; that we undertake all sorts of negotiation and discussion along the lines of extending time to comply when orders are issued, trying to establish improved relationships between landlords and tenants when it has

resulted in people becoming entrenched and unable to resolve their problems as it affects both of their interests.

In many cases I believe we've been effective in doing that, with, unfortunately, some very notable exceptions. I'm sure you're all familiar with West Lodge apartment towers. The concern I have and that the city has had in striking a team of people to deal with high-rise building conservation over the past year and a half is that this may well be the direction that many of our large rental residential properties will go in the future.

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We have a real interest in wanting to know that they're being maintained properly. I am not so much speaking to the economics of building new rental housing but the mechanics by which we ensure that the existing rental housing is maintained properly.

I can tell you unequivocally that the prosecution process accomplishes very little, if anything, at the end of the day. It takes many months to effect, and the mechanics are such that if an aspect of an existing order is complied with prior to the time that matter goes before the court, a court may make a determination that that matter is not properly before it because all the items of repair do not remain outstanding at that point.

Having said that, with the very few cases we do bring before the court because we have no other means of resolving them, we end up with the very insignificant average fine of \$370 per offence. When I consulted with my colleagues — and Toronto-area chief building officials provided a paper to the Ministry of Municipal Affairs and Housing on this point on January 23 of this year — we found that our experience is very much the same, that the average fine is no higher than \$500 per offence. It's a very insignificant motivator to the underlying reason we're all in that business: to get the problem resolved at the end of the day.

The proposals in the bill, I would suggest to you as a practitioner, are not going to be effective. Increasing fines is not going to be effective. The fines levied by the court right now are nowhere near the maximums already available to justices of the peace. I realize that the judiciary is at arm's length and we have no means, necessarily, of encouraging them. We've tried to present our cases in the most effective way we can, but we've been unsuccessful in encouraging them to levy larger fines. I have to say that my preference would be to avoid the court process entirely and to have any money that might be set aside put back into the buildings. That is always the effort we put forward.

The only effective means we have ever had to get repairs made, and made in a timely way, is the order to prevent rent increases. By and large, we're dealing with business people, and they may not understand the complex mechanical systems that make a building function or not function. They may get a range of advice from engineers and architects and contractors about what kind of repairs are necessary. That can all be very confusing, and that's where our role is important, to help weed through some of the fog and get them to effective, appropriate solutions.

But when we can't get people to come to the table and have those discussions with us, we need something to

motivate them. The court process does not do that. If and when it does, it's long after the problem has been identified. It results in what might generously be described as a slap on the wrist. We walk out at the end of that process with no assurances that the problems are going to be resolved in a meaningful way, neither for the tenants nor, unfortunately — as we saw in West Lodge, when an apartment building is sufficiently run down, it ceases to be of any income value or real property value to the owner and they find it in their economic interest to walk away.

The Chair: Ms Coburn, if I can assist you, you have about one minute left.

Ms Coburn: Thank you, sir. The last point I want to make is that we have had some successful discussions with staff at the Ministry of Municipal Affairs and Housing and with the Ministry of Consumer and Commercial Relations relating to concerns about the operation of elevators. This is another area of standard maintenance. You may or may not know, and it's included in my brief, that there is no requirement for providing elevators in buildings, so we look to maintain the systems and the elevators in place.

Our property standards people are in and out of these buildings regularly for all the problems I've outlined to you just moments ago. For that very reason, we're in an ideal position to issue orders and be an effective means of trying to make sure those elevators are maintained as well. They provide not only access for people to come and go from their buildings, but also access for emergency services. I believe that's the substance of my —

The Chair: Thank you, Ms Coburn, Councillor Gardner. Unfortunately, your time has expired. I know members of the committee would like to ask questions, but —

Ms Gardner: Next time, Mr Chairman.

The Chair: We'll be looking forward to hearing you another time, Councillor Gardner, as always.

ONTARIO HOME BUILDERS' ASSOCIATION

The Chair: The next delegation is the Ontario Home Builders' Association, Andy Manahan, Al McLean, Rob Cooper. Good morning, gentlemen.

Mr Al McLean: Good morning. My name is Al McLean. I'm obviously not the Al McLean, if you can overlook that and forgive me. I'm the first vice-president of the Ontario Home Builders' Association, and I'm a developer-builder from the Stratford area. With me today is Rob Cooper, who is also a vice-president of OHBA and a builder in the Hamilton area. OHBA staff member Andy Manahan, the director of industry relations, will assist during question period.

I will ask Rob to lead the presentation and then I will make some concluding remarks. Before I pass the baton, I should note that neither Rob nor I are in the rental business. It doesn't make economic sense. The minister has stated that nobody in their right mind would invest in building a rental unit under the current conditions. Hopefully, then, our comments will be viewed as rational and compelling.

We follow the Toronto delegation. We reference a report commissioned by the municipality of Metropolitan

Toronto this year which concluded that the prospects for rental housing production in Metro are not good unless a number of reforms are implemented. The returns from new rental investment are only 3% to 4%. The report stated that it would make more economic sense and entail less risk to buy an existing building. This doesn't add to our rental stock or our housing choice.

Across Ontario, the lack of rental construction is evidence that investment behaviour is guided by such basic criteria as returns and risk aversion. Long-term risk analysis has been impossible in an environment where additional layers of regulation are added every few years. We should note that the commissioned report and other reports have shown that one of the biggest factors preventing rental accommodation from being built is a high level of municipal taxation, much higher than that of single-family homes. That will be addressed a little later.

OHBA is here to offer support for the delayering which will result when Bill 96 is passed in the Legislature. Obviously, this is a controversial issue and there are polarized views about rent control. But surely everyone must agree that the system is broken and that the status quo is unacceptable.

Mr Rob Cooper: The Ontario Home Builders' Association represents over 3,400 member companies involved in Ontario's residential construction industry. Our membership is made up of all disciplines involved in residential construction, including builders, land developers, renovators, trade contractors, apartment owners and property managers, mortgage lenders, housing consultants, economists, planners, architects, engineers and lawyers. Together they produce 80% of the province's new housing.

Unfortunately, the current tax and regulatory conditions have impeded private rental supply. In 1996 there were only 931 private rental units built, or just 2% of the over 43,000 total housing starts in Ontario. Contrast this with the 1970-74 period when an annual average of 27,196 private rental starts were built. Rent controls have been in place since 1976 and this has had a negative effect on the housing industry. Ever-tightening controls and unfavourable tax treatment have made private rental construction more difficult, even though interest rates are at all-time lows and there is an abundance of capital looking for a reasonable return.

A little bit of tinkering will not result in significant production of new rental. OHBA has already stated that the current proposals contained in Bill 96 are necessary to increase supply but will not be sufficient to stimulate the construction of rental apartments. We remain committed to the view that the elimination of rent controls will not only encourage new supply but will also restore balance in landlord-tenant relations.

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It is generally acknowledged that rent controls are a major barrier to new construction. Many housing economists have pointed out the distorting influence that rent controls have had on rental housing production in many different jurisdictions across North America. In Ontario, the introduction of rent control legislation in 1975 and the tightening of rental legislation, particularly over the last 10 years, has severely diminished the incentive for

builders to expand the stock of rental housing. Rent controls have also made it difficult for owners to repair the existing housing stock. By passing Bill 96, with selected amendments, a better environment will be created for rental investment and a positive signal will be sent that rental construction will make economic sense in the near future.

Perhaps the most significant report done recently is one commissioned by the Ministry of Municipal Affairs and Housing and completed by housing economist Greg Lampert in November 1995. The Lampert report clearly outlined the measures which all levels of government could take to encourage the construction of new rental housing.

Scholar Anthony Downs prepared a paper entitled the High Cost of Rent Control for the National Association of Home Builders in the United States. He referenced a number of studies that demonstrate how higher-income households are the principal beneficiaries of rent control laws, not the poor. Similarly, consultant Dr John Todd last year prepared a paper for the ministry which concluded that underpriced units tend to be occupied by preferred tenants with higher incomes and secure jobs.

Controls artificially increase the demand for rental accommodation, because certain tenants who would otherwise be able to afford condominiums or houses continue to rent, according to Dr. Todd. These tenants enjoy very low rents in prime locations because their rents were frozen at below-market rates when rent regulation went into effect in January 1976. Even with historically low mortgage rates which have made home ownership housing more attractive, these tenants will often remain in the apartment if their monthly rents are relatively low compared with mortgage costs; an example would be under \$600 a month for a well-maintained building.

A number of measures were cited in the Lampert report as being important to improve the tax and regulatory environment. As the committee members are aware, an array of taxes is included in the final price of any new house or apartment building. Some of these are directly under the influence of the Ontario government while others are either local or federal in nature. Lampert prepared generic pro formas that illustrate that there exists a gap between economic and market rents. In the Hamilton market, the gap is about \$150 per month per unit, and in the Toronto market, the gap is about \$260 per month, using typical land, construction and other costs.

As OHBA's primary mission relates to increasing supply, we will make comments that focus on areas that both fall within this government's sphere of influence and fall outside of its direct jurisdiction.

(1) GST Impacts: The GST on rental is a full 7%, while for most ownership housing it is effectively 4.5%. Both the Ontario Home Builders' Association and the Canadian Home Builders' Association based in Ottawa will continue to lobby the federal government on fairer tax treatment for rental.

We would ask the Ontario government and individual MPPs to dialogue with the federal government so that MPs are informed as to the negative influence of the GST and are in a better position to influence policy decisions.

(2) Even more important to us than GST impacts are property taxes. The level of property taxes on rental is a major impediment to investment. The Lampert report estimated that property taxes account for \$1,200 of the nearly \$3,000 gap between the economic rent required to make the project viable and the achievable market rent.

Overall, the Fair Municipal Finance Act will result in a more consistent property tax system in Ontario and is long overdue. In many municipalities, however, the tax rate on an apartment unit is two to five times the rate of an ownership single-family housing unit and municipal leaders may not wish to tackle this issue at the risk of upsetting other constituencies.

OHBA recommends that the provincial government monitor the municipal response to property assessments on rental very closely. We would further suggest that a pilot project be initiated to implement a more equitable property tax system for apartments. We believe that provincially driven reform is inevitable, both to ensure fair treatment for apartments and to encourage supply.

(3) The bigger picture: Ontario cannot rely solely on ownership housing production. Our supply of rental has been dismal when compared to our population growth and immigration into urban areas. By contrast, in the United States the new private rental housing industry is alive and well and the rental share of the total multi-family housing starts is two thirds, approximately 280,000 units per year. This healthy rate of construction occurs in many centres which have vacancy rates of between 8% and 10%.

Although the provincial vacancy rate rose from 2.3% to 3% in 1996, the level remains too low in larger markets such as Hamilton at 2.2%, Kitchener at 1.8%, and especially Toronto. Interestingly, there was a sigh of relief when Toronto's rate rose from 0.8% to 1.2% last fall. This is not a healthy situation, as it limits choice. It also reinforces our argument that additional supply will be needed, particularly in the Toronto market.

In CMHC's Rental Market Report of last November, it was noted that the province's younger renter-aged population will grow in the coming years. At a recent OHBA meeting it was highlighted that the nature of employment is changing for a significant segment of the population who must relocate frequently. For example, contract positions are much more common today. Finding suitable and well-located rental accommodation is a preferable option over home ownership for these people. To remain prosperous we must cater to the demand of a mobile workforce.

In response to an industry questionnaire directed to all parties on non-profit housing in 1994, we received a response from the PC Party that stated: "Rather than an expensive and cumbersome non-profit program, a Harris government would assist individuals and families through a shelter allowance program which would provide assistance to those most in need and generate significant savings for taxpayers." The Ontario government must consider implementation of a targeted shelter allowance program as a means of assisting families in need.

Mr McLean: Stimulating rental construction will accomplish a number of objectives: It will create needed housing for tenants; it will create construction jobs; and

it will create taxes for the municipal, the provincial and the federal governments. It should be added that jobs will be generated by new construction and also through the renovation and retrofit of existing buildings.

Ontario Home Builders' Association members will play a major role in the resurgence of the private rental market. Bill 96 represents a positive step to achieving this aim. This is a complex issue which touches upon the most important need that people have: a home. The differential impacts on society that rent controls have had were likely not anticipated by advocates who wanted to protect less affluent tenants. Rent controls have benefited well-to-do households who live in apartments at artificially depressed rents. The poor have suffered by not having adequate choice in housing, mainly because of rent controls.

There continues to be uneasiness about rental construction in the industry for a number of valid reasons. Members may recall that rent controls in 1987 were imposed retroactively on post-1975 buildings, resulting in financial losses for the owners of many of these buildings. A removal of rent controls altogether would alleviate the uncertainty that investors have when decisions to proceed with rental or condominium projects must be made.

Changes are necessary to improve upon the legislation. In this regard, we support the positions taken by the Fair Rental Policy Organization and we hope that the committee strongly considers their suggested amendments during the clause-by-clause process. Nearly 22 years of rent control in Ontario have had a major distorting influence on our housing market. These proposals will begin to undo the damage. Further changes are required to property taxes, the GST and a number of other factors. It will take time for the market to function properly again. It will take time for investors to become comfortable with rental again.

In conclusion, these reforms will provide a better future for Ontarians and will increase our housing choice.

We would be pleased to answer any questions you might have.

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The Chair: We have time for a quick question and a quick answer.

Mr Gilchrist: I'm sorry, I had to speak in the House and I just came in the middle of your presentation, but I've read the entire brief. I would ask you to comment a little further on your second point, property taxes, because I couldn't agree with you more. I guess it's very frustrating to you, to the industry and to tenants in particular that not one municipal government has seen fit to fairly assess property taxes on an equitable basis when comparing apartments and single-family homes.

I wonder if you could give us some guidance. You recommend monitoring them. What sort of time period do you think would be appropriate to suggest to municipalities that they seek that goal of equitable treatment, given the significant impact that would have on rents across the province?

Mr McLean: I'd have to say that I'm not sure we would be in a position to suggest a time other than the quicker the better. If something could be done in the next

two years, that would obviously be preferable. We believe that we see a correlation between municipalities that have lower property taxes on rentals, perhaps one and a half times single-family homes — I would suggest that London is something in that neighbourhood, with a high vacancy rate and much more choice in housing — and most of the Toronto area municipalities, which might have three to five times the property taxation on apartments as they do on single-family housing, with a much lower vacancy rate and less choice for tenants.

Mr Duncan: I think it needs to be put on the record that until recently the province did assessment. Municipalities do a mill rate but assessment was the purview of the province until recently. We would have thought that if the government were serious about property tax reform, they would mandate municipalities instead of leaving it as an option to municipalities.

We're very sympathetic to a number of the arguments you've made around the regulatory barriers and tax barriers. We don't share your view, by the way, on rent control. We think there's a place for price regulation in Ontario. Professor Lampert's study has said that there are a number of factors, and you've cited all of them, that would have a greater impact.

Ultimately the issue comes down to how you stimulate rental housing. You have indicated in your presentation that landlords can expect a 3% to 4% return on their investment. Earlier today we had a presentation that included a number of documented pieces of evidence from a leading real estate brokerage in Toronto that says that in fact returns on equity on apartment investments in today's market would be in the vicinity of 11% to 14%, and they are detailed here. They're from a major Toronto real estate agency, and I assume landlords wouldn't suggest that they're not telling the truth.

The other point Professor Lampert made, and I want to come back to this, is the notion around the greater security of investing in existing rental housing buildings as opposed to new development. You had suggested that in the absence of rent control there would be more new units come on, but I believe under the current law there's a five-year exemption to rent control for new development. I wonder —

The Chair: Actually, Mr Duncan, we don't have time for a response. Mr Marchese.

Mr Marchese: Mr McLean, I just want to tell you and the others that I don't have much sympathy for the arguments you advance in general and also very specifically as well.

I would refer you to a paper written by Professor Hulchanski. I'm not sure you were here when he made that presentation. I urge you to get a copy or I could give you mine and get another copy later. He argues this: "Vacancy rates fell dramatically between 1971 and 1974, from about 3.5% to close to 1%. Private rental starts fell from a peak of about 40,000 per year in 1972 to a few thousand in 1975." He goes on with a few other arguments. Rent controls came into play in 1975, much later.

There is no evidence whatsoever that you're presenting that says the elimination of rent controls will in fact encourage new supply. You have no evidence whatsoever. The study you give, of Lampert, clearly helps us

out in this regard. It helps me out, not you. There is only \$200 worth of money to reduce that \$3,000 gap per unit that's committed to lowering administration due to reform of rent regulations — 200 bucks. You know that because you refer to it. So much of what needs to be done to get housing starts has to do with other things, not really rent control. That's the basis of this document, and it's going to affect a lot of tenants. Yet you argue with confidence, "Without being a landlord, this is going to help tenants," and you argue with confidence that the elimination of rent controls will encourage supply. How do you do that?

The Chair: Unfortunately we don't have a chance for that response either, Mr Marchese. We have to proceed to our next presenter. Mr Cooper, Mr McLean, Mr Manahan, thank you very much for coming this morning. It's too bad we can't proceed, but we're out of time. Thank you very much.

Mr Cooper: We'll meet them in the hallway.

The Chair: I'm sure you will.

SCOTT SEILER

The Chair: The final delegation this morning is Scott Seiler. Mr Seiler, good morning. The floor is yours.

Mr Scott Seiler: Good morning, members of the committee. My name is Scott Seiler. I'm generally here representing organizations primarily dealing with people with disabilities, but today I am here as a tenant in the province of Ontario and as a disabled person. I'd like to describe a little bit of what's going to end up happening to many, many people in the disability community when they end up passing this law actually helping landlords scoop tenants, to be very frank.

I would like to start out by saying that I find the 30% put on to renters extremely objectionable. That you must earn at least a minimum of 30% of the rent to be able to get an apartment I think is a very big mistake. For instance, in my own life, my wife and I are both disabled and we do not earn huge amounts of money. Most people with disabilities do not earn large amounts of money. We live in an apartment that is fairly expensive, well beyond the 30% rate for our rent, and if we were to be going into this apartment with this new legislation, there would be no way we would be able to rent it according to what the landlord would say. We would be well above that.

In fact, to be very honest with you, with the kind of income that we both have, I would suggest that we would not be able, under the 30% rule, to get any rental accommodation anywhere in the province of Ontario. We would not earn enough money. Our 30% would be about \$110 a month or \$130 a month in rent, and that would be all we would be able to afford if they applied the 30% rule to our income at this present time.

With all the changes that are going on around us and around this bill that we're talking about here today, the Tenant Protection Act, or what I'd like to call the landlord protection act, it encompasses so many different areas. For instance, there are going to be very large changes to social assistance for those who are disabled and to the employment programs for those who are disabled. I'm not going to be eligible, according to the definition of disability that's going to be there, for any of those support types of programs.

As time goes on, I will become less and less employable simply because I will not have access to things like assistive devices and other equipment through the newly developed program that's happening right now to take the place of the vocational rehabilitation program. I'm going to be out of luck as far as finding work in the future is concerned, because my ability to get assistive devices is going to be gone, and that impacts on my ability to rent.

I would like to know what the government is planning on doing around this type of issue. We are going to see more and more people marginalized. The 30% issue, that your rent cannot be any more than 30% of your income, is going to have a huge effect on people like myself and my wife. We are basically going to end up homeless or semihomeless or having to move in with family. I don't think that's an appropriate thing for us to have to do. There should be other means for us.

To be very frank, what's going to end up happening with many, many people is, you're going to see people ending up more on the street. You're going to see people who are in the lower-income brackets ending up more and more in very, very substandard housing. In fact, what the 30% rule will do in this piece of legislation is lock out all low-income people from rental accommodations in Ontario. We are going to be stuck in boarding homes, on the street and living with family and friends, and quite often in very poor circumstances.

Mr Duncan: In addition to your concerns about the bill in general, you're advocating specifically that it will affect those on disability even more than it will others and that therefore it has a disproportionate impact on people such as yourself.

Mr Seiler: Yes, sir, even those who are not on any kind of disability pension at this particular time. If they happen to have to be on a disability pension, how will they come up to the 30% when their maximum income is \$930 a month and your average one-bedroom apartment in Metro is going to cost you between \$600 and \$800 a month?

Mr Marchese: I have a great concern for people with disabilities and the third of all tenants who earn less than \$22,000 or so. These people will be seriously affected. It will include people with disabilities. They will be seriously affected by the decontrolling that will increase rents. We have no doubt about that. We've seen this in New York; we've seen it in British Columbia. They tell us no. We've seen the evidence and it's going to be a problem.

All I can urge you to do, Mr Seiler, is this: That you talk to other people who live in your building to come here on August 5 when we're going to have hearings again, starting in Toronto, and that other people begin to become aware of these problems. I know that you've been here before, but I think we need to see other people from where you are living come and share their views and concerns with the Conservative members of this government. I hope you'll come. Thank you for coming.

Mr Gilchrist: Thank you, Mr Seiler, I appreciate your coming before us here today. As someone who has a family member who is disabled and a tenant, I can assure you that nothing in this bill will do those things. I must say that your entire presentation is premised on a giant lie. No one has put in this bill — there is no suggestion

that there be a 30% rule. There is a great myth floating around out there. I think it is utterly scandalous that tenants are being misled this way by certain vested interests and certain stakeholder groups.

The fact of the matter is, right now in Ontario 195,000 tenants pay more than 50% of their income. The other myth is, it is currently legal for a landlord to ask for income checks. My question to you is: If landlords have been getting their monthly rent cheque from those tenants, 195,000 of them, month after month; if the tenants obviously are happy with their premises, or they would have moved presumably; if the landlord was able to ask for income checks when the tenant went in there; why would you believe that now, just because the bill codifies that landlords can do that, landlords would say, "You know, I really don't like getting \$300 a month; I'd rather get zero." Why would landlords throw out tenants in that circumstance? Why would you believe that a landlord who currently rents to somebody at, say, 50% of their income would change their rules?

Mr Seiler: I'm actually not saying that anybody's going to get thrown out. What I'm actually saying is that it will be nearly impossible for people to rent a new unit. They will actually be stuck in the unit regardless what type of behaviour is going on, how well the unit is maintained or anything else. People will be trapped in the unit that they're in, both because of having the ability for rent to go up when the tenant moves into a new unit and because of the 30%. The 30% is there and it is not a big lie. To be very honest with you, I get very frustrated when people say what's in the bill is not in the bill.

Mr Gilchrist: You show me in what section it says 30%, sir. There is no mention of a 30% rule. There's no mention of any per cent anywhere in that bill. If somebody has told you that, sir, they are lying to you. That's the bottom line.

The Chair: Mr Seiler, thank you very much for coming and making your comments to us. That appears to conclude the delegations this morning. I will recess this meeting until 3:30 this afternoon.

The committee recessed from 1155 to 1556.

The Chair: Good afternoon, ladies and gentlemen. Although orders of the day are continuing, it is my understanding that the House, by unanimous consent, has given this committee authorization to proceed. Members of the public, I regret the delay. We'll try to proceed as best we can.

GARY McILRAVEY

The Chair: The first delegation is Gary McIlravey. Mr McIlravey, good afternoon.

Mr Gary McIlravey: Good afternoon. My name is Gary McIlravey, and I am a partner in a company called Proof Positive Real Estate Research. That's what I'm doing now. For about 12 years I was vice-president of a company called N. Barry Lyon Consultants Ltd, which is a firm which provides residential development consulting advice, mainly to the private sector industry; house builders, developers and some landlords in Ontario.

I'm here to present information which I believe will be useful for the committee in considering section 200 of Bill 96, which would amend the Ontario Human Rights

Code to permit landlords to select prospective tenants based on income criteria.

While I was with Lyon Consultants, we were retained in 1994 by the Human Rights Commission to research the question of whether there's any justification from a business standpoint in landlords disqualifying low-income applicants on the basis of income information. I was a lead researcher on the problem. Barry Lyon also was directly involved, and we presented the results to the board of inquiry in 1995.

In the context of the research, we conducted a survey of landlords to determine what percentage of various types of landlords actually used income criteria in qualifying their tenants. We also reviewed survey data from landlord and tenant court to determine the risk of default in the tenant population, or actually the incidence of tenant default in the tenant population. On the basis of data from the landlord and tenant court as well as fee schedules from professional eviction services, we estimated the average legal and arrears cost arising from defaults. We also examined financial statements from residential rental properties to determine the significance of default in determining the overall profitability of the rental business.

As a result of the research, we concluded that the use of income screening or income criteria is not justified from a business standpoint, the primary reason being that it boils down to being an insignificant cost in the overall balance sheet of doing business. We estimated the costs of default, including legal costs, not receiving back rent, sheriff's costs, to be less than 1% of gross income. Other aspects of the rental business come in far and away higher, and I'll get to them in a second.

If reducing default is a prime reason for implementing income criteria, but the actual costs of defaults are insignificant when you view them in the overall cost of doing business and in the profit line of the building, it follows that one conclusion you can draw is that implementing income criteria has little justification from a business standpoint.

There's also, in our experience, little or no conclusive evidence that's been brought to light that shows that tenants with higher rent-to-income ratios indeed are likely to default to a greater extent than people who have lower rent-to-income ratios.

There was a study done in response to the board inquiry for the Fair Rental Policy Organization, and I was made aware of that through the submissions of Mr Dewan, who I believe spoke before the committee. However, having reviewed that report and the report that he referred to, as well as some work done by Professor Michael Ornstein of York University, I think Mr Ornstein's work showed that the work Mr Dewan referred to, which was done by Comquest Research, was flawed not only in its sampling frame but also in some of the analytical techniques that were used. So while they found in that report that there was a correlation between higher rates of default and higher rent-to-income ratios, in fact the results were flawed, and when Professor Ornstein retraced the data and corrected it for the flaws he identified, there was no significant difference whatsoever in the rate of default.

We reviewed tenant qualification practices in the rental industry as well. We did two things. We looked at what the rental industry does when you qualify a property manager, what you tell them, and what the incidence of the actual use of income criteria in the marketplace is.

On the first point, we sought out a handbook from an association called the Toronto Property Management Training Association, which is an institution that provides a course in property management. From their handbook on property management, we reviewed duties and responsibilities of the property manager. It covers a range of the areas: keeping the property leased, collecting income, paying the property taxes and maintaining the physical integrity of the building.

There's a whole section, chapter 9, of that document that's called "Assessing Prospective Tenants." It's listed on page 5 of my summary. I won't read it through. It lists virtually every technique, such as, are they a good credit risk, will they be able to pay the rent on time, are they likely to remain in the building for some time or do they have a bad rental history? There's no mention in the documentation for that accreditation of using income criteria in assessing a tenant. We found that to be somewhat of an omission inasmuch as it seems to have been stated in some quarters that the use of income criteria is a standard method for evaluating tenants. In fact, it's not even mentioned in the documentation to become a property manager.

Second, we did a survey of available apartments in the Toronto area between March 28 and April 4, 1994, based on the Renter's News. We basically selected at random; we called 183 managers of rental buildings. We tried to talk to more but they didn't return calls. That target number was based on the number of listings that were in the Renter's News. We were trying to get a representative sample. We stratified it based on building type, whether the building was a high-rise, a low-rise, a town house, a mom-and-pop basement apartment.

We had someone pose as a renter, so they would act as if they were looking for a unit. We found that virtually all managers contacted qualified the prospective tenants by checking references, 99%; 96% checked to see if the person worked; 95% required first and last months' rent; but the majority, 72%, did not use income level as a method of qualification; and under one third, 28%, did use income.

Interestingly, when we did a cross-tabulation, we found the incidence of using income criteria as a qualification technique was much higher in apartments over five storeys and town house complexes and much lower in low-rise apartments and in apartments rented in homes, which led us to the conclusion that bigger landlords are much more likely to use income criteria and smaller landlords are much less likely to use them. If you consider the impact of one vacancy on a building, because of a default or otherwise, it's a lot greater on a five-unit apartment building in a house compared to a 500-unit building that's more likely to be managed by a larger company. We found that result interesting.

We also estimated the impact of default on the profitability of rental businesses. As I mentioned earlier, we found that it was almost always less than 1% on gross

income regardless of what building example we used, and we were using actual examples of actual buildings which were transacted in the Toronto area.

These results correlated very closely with some work that was done by the Residential Tenancy Commission in 1984, which undertook a survey of landlords' cost-revenue statements which had been filed as part of their applications for rental increases. Of 829 applications that were made between 1981 and 1983, it was found that the cost of bad debt to Ontario landlords averaged \$25 annually or \$22 a unit in buildings of more than 50 units, \$2 a month a unit or less. This was less than costs such as elevator maintenance, \$31 over the year; grounds keeping, \$27; and the like. The overall cost of bad debt related to gross income in that study was around 0.7%, which was pretty much in line with what we found in our study.

We estimated that the actual extent of landlords' eviction proceedings occurred in approximately 3% of the tenant population in a given year in Metro Toronto, and that was based on actual statistics provided by the courts; 3% per year or 0.25% per month. Taking that into account and taking a typical building of 150 units and coming up with a typical rate of default, then taking all of the costs of default — the first and last months' rent, assuming they never did get paid back, which is very rare since it's already in hand in the last month's situation; the costs of the sheriff; the costs of an eviction service — we found that the total cost wound up being about \$1,627 per year for a typical building of that size, or about 0.6% of the gross income stream. Again, we saw some correlation in our own analysis and one 10 years earlier, and it showed that the impact of default is less than 1%.

The Chair: Mr McIlravey, as you know, we've probably got a time problem here. I'm wondering if there's a possibility that you could condense some of your presentation.

Mr McIlravey: Yes, I'm just getting to my conclusions now.

The conclusion is that most businesses have bad debt. Bad debt of less than 1% of income is common in virtually all forms of business. We checked that with Dun and Bradstreet, and it's virtually in line with any kind of business. However, most businesses don't turn away potential customers because of their bad debt and because of that relatively minor risk. Considering that the effect of a typical level of bad debt on profitability and return on investment is minor, eliminating bad debt entirely is going to make a difference of less than 1% on the bottom line, and even if it were to double because of income criteria being taken off, it would have an impact of less than 2% on the bottom line.

In a nutshell, we found there's no evidence to suggest that people of higher rent-to-income ratios are more likely to default than not, and we found that even when defaults occur, the bottom-line cost to the typical landlord, at least in the Toronto area, because that was where our survey was done, is insignificant, very minor. If that is the case and if income criteria are being considered to reduce defaults, then we believe they're inappropriate.

The Chair: Thank you, sir, for coming. I'm sorry to rush you. As you know, through no fault of the commit-

tee, we do have a time problem and we're already about three delegations behind. I thank you for your cooperation. I know all members will read your report.

COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

The Chair: The second delegation is the Council of Ontario Construction Associations, David Surplis. Good afternoon, Mr Surplis. I'll be telling all delegations the same, sir, that because we're behind, if I could ask each of you to shorten your presentation somewhat, we'd appreciate it.

Mr David Surplis: No problem. As the Chairman has indicated, my name is David Surplis. I'm president of the Council of Ontario Construction Associations. We're appreciative of the invitation to appear here to lend our general support for Bill 96. You can find out about COCA, if you don't know about it, at the back of our brief. We represent about 50 construction associations right across Ontario in everything except the building of houses, which of course is done by the Ontario Home Builders' Association.

COCA, like almost every other group around here, develops policy through committees and consensus and so on with volunteers. Because our volunteers have a number of political sensibilities, we rarely take positions on issues that don't affect construction directly. So we're here today to tell you, yet again, that rent control and tenant protection programs do affect the construction industry directly and painfully.

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Many of you have heard us say it before, but it bears repeating that for the last seven years the non-residential sector of the construction industry has been in severe recession. We get our hours from the union hall. They keep good track of them. Last year we were operating, in terms of hours, at approximately one quarter of the capacity we reached in 1989 and one half of the rolling average from 1974 to 1989. So there's lots of unemployment in our sector of the construction industry. Unfortunately, as we've said too, many times a lot of people, when they think of construction, think, "Oh, housing," and housing is doing fine, so therefore construction must be doing fine. I'm here to tell you that the other side of construction has been doing very poorly and we're only beginning to come out of it.

The one thing our members have become aware of — we're here on all kinds of issues, as a number of you are aware — one thing we haven't been able to solve is the effect of political interference in the business cycles. Back in 1990-91 you probably wouldn't have heard us say something like that, but within hours, literally within hours, of the introduction of Bill 4 by the NDP government in 1991, or late 1990 it was, our telephones lit up like the proverbial Christmas tree, because virtually all our contractors who were working on apartment buildings were ordered off the job and all their workers were sent home. That was it. It just ended the work on restoration and renovation of apartment buildings. The lenders to the landlords couldn't see a return, couldn't see a recovery of the money, hence the end of the job.

Literally hundreds of our workers were thrown out of work within hours of introduction of that bill, not passage, but introduction of that bill, so we learned to watch them very closely. In fact, we came here jointly with our unions to make a plea about allowing some cost pass-through, but we got nowhere, except that we learned a lesson to watch social policy as well as economic policy.

Our members also came to realize that rent control is a political invention and it has very serious meaning for contractors. We weren't surprised to learn that it first came up in 1975, when Mr Davis announced it in response to a charging Stephen Lewis, and from that day to this it has been a politically inflamed issue, as you know. We also know that the pressures surrounding this issue mean that a clear-cut decision to eliminate rent controls is virtually impossible in Ontario.

From the construction industry's point of view, sifting through the hundreds of briefs and studies and public pronouncements that you've heard from just about everybody here, there's one fact that stands out above all others and that is that the entry of the government of Ontario into the rental housing market in 1975 spelled the end of large-scale apartment construction. That's all we know as contractors. In the years prior to 1975, tens of thousands of apartments were built in Ontario; in 1996, there were under 50 built in Toronto, the largest housing market in the province. From 40,000 in 1972 to a few hundred in 1996 is an unmistakable sign of the problem.

We've lost a lot of jobs. As I point out in the brief, we didn't lose them all, because some of the workers who were working on apartment building restoration went on to other things and perhaps built condos, that kind of thing. But that demand for apartments was lost to the economy. Then what happened? Various governments decided to play developer, but the non-profit housing experiment proved to be a huge drain on the public purse, so the Harris government today has put an end to it. But there's a problem with that. Just as other governments realized that the public purse had to be used when the private sector was forced out of the market, there has to be a realization that private investment has to be encouraged when the public-purse spending has stopped.

But unfortunately we don't believe that Bill 96 by itself will provide the necessary conditions to allow the private sector to meet the pent-up demand. As everybody has heard from the development community, there is no guarantee that Bill 96 will attract private investors back into the rental market without many other changes, like reduced development charges, a more reasonable approvals process, equity and tax treatment of rental property and so on, some of which, as we grant, are beyond your jurisdiction. It's unreasonable to expect that any kind of boom will develop in rental housing with the simple passage of this bill. We agree that it is a meaningful reform, a step in the right direction, and we recommend you look at the amendments suggested by the Fair Rental Policy Organization, the UDI, the Ontario Home Builders' Association and so on.

Strictly from our point of view, from the builders' point of view, there is much better news on the subject of capital expenditures. We've been here many times over the last six or seven years to tell you about the absolute

need for capital expenditures to preserve the viability of the existing stock in Ontario. We even helped commission a lot of the studies that have been cited by everybody. The figure that most people use is that there's a pent-up need for about \$10 billion worth of renovation, restoration, repair, rehabilitation, whatever you want to call it, in the apartment field, just the present stock we have.

A huge backlog of capital repairs has developed since the passage of Bill 4, and it is imperative that this necessary work be undertaken, because almost 75% of all rental units in Ontario were built prior to 1972. At 25 years of age, these buildings require replacement of major building systems and their components. The fact is, and we readily admit it in the construction industry, that the construction techniques were not as advanced 25 years ago and many balconies and parking garages are seriously at risk, not to mention outmoded mechanical and electrical systems and energy-inefficient building envelopes. The problem is that a lot of people can't see that. Just the other day I was told about railings around a high-rise apartment that blew off in a high wind. Nobody could see that was coming, everything looked fine, but that's the problem.

As I say, I don't need to belabour the point about capital spending, because Bill 96 goes a long way to addressing it. But what I can assure you, from what we've heard from the landlords and prospective developers, is that there will be lots of work generated in the restoration and repair sector of our industry as a result of this bill, and that's important. First, as I said, the buildings really need it, and second, there's very high unemployment still in the ICI sector, that's the industrial, commercial and institutional sector of construction.

The \$10 billion that is needed, the capital work that is needed, we're told by the Fair Rental Policy Organization and its members that the changes proposed to the Rent Control Act in this bill will allow landlords to recoup enough of the capital costs and projects to address the requirement will begin immediately. In fact, a number of FRPO members have already started projects in anticipation of the passage of Bill 96.

The bottom line is that the capital provisions will address the preservation of existing buildings, will create thousands of much-needed jobs and will ensure the maintenance of quality accommodation for tenants. We support these provisions and we encourage the committee to do so as well.

To recap, the contractors in COCA support Bill 96 as a step in the right direction. We don't believe it will result in resumption of a full-blown market in private apartment building without additional changes; for instance, making sure the municipalities treat rental and owned accommodation equitably eight years in the future.

You've already been given lists of amendments by groups like FRPO and UDI and the home builders. We recommend them to you. We're very happy with the opening up of capital provisions that allow the restoration of the existing stock, and so on balance we feel that progress is being made. Of course, finally, we would prefer to see rent controls disappear entirely, but we are appreciative of the efforts made by Mr Leach and his

staff. If you have time for questions, fine; if not, I'm happy to —

The Chair: Knowing particularly Mr Marchese would love to ask you some questions, unfortunately we've had a delay in the committee and we're not able to ask you any questions.

Mr Marchese: You were spared.

The Chair: Perhaps at another time. Thank you very much, Mr Surplis, for coming.

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PARKDALE TENANTS' ASSOCIATION

The Chair: The next delegation is the Parkdale Tenants' Association. I have three names: Bart Poesiat, Anna Thaker and Jeanie Lee. Thank you for coming. You may have heard my comments that we're running unbelievably late. I'd ask that you cooperate with us and try and condense some of your remarks to us to enable people who are following you to make presentations. The floor is yours, and could each speaker identify themselves.

Mr Bart Poesiat: We will do that immediately, Mr Chair. On the far right is Jeanie Lee, who is an executive member of the Parkdale Tenants' Association. Next to me is Anna Thaker, who is also an executive member of the Parkdale Tenants' Association as well as the president of the West Lodge Tenants' Association, a building that has been named many times. My name is Bart Poesiat.

Thank you for allowing us to speak to you. A few words about Parkdale and the Parkdale Tenants' Association: The association is a grass-roots community organization first formed in 1971 to help fight against rent increases and improve tenants' lives in Parkdale. The Parkdale Tenants' Association is made up of Parkdale tenants, ordinary people, many on low incomes. The unemployment rate in Parkdale currently hovers around 45% to 50% and we survive on the meagre dues of our membership, \$7, or \$3 for the unemployed. Nevertheless, we have had some successes over the years.

We believe that decent, affordable housing is a right of every individual. We have always worked for the rights of tenants to secure long-term housing through keeping apartments affordable and in good repair and increasing the number of affordable apartments. As we've said many times in the past, the Parkdale area, especially south Parkdale, has a fine collection of slum buildings that have been turned over from one landlord to another. Many people have made profits out of those buildings at the expense of the people who live there.

We've certainly had our problems there, but nevertheless, under the type of legislation that we have been able to achieve over the last 25 years, we have been able to achieve some successes, one of which is 103-105 West Lodge, where the tenants are currently poised to buy their own building. Although that achievement has been temporarily defeated, perhaps partly because of Bill 96 and the prospect that the building is going up in value, there have been substantial repairs made. There's been a long history of struggle. Many people have been exploited there, but at the same time the situation is looking up and that's through the efforts of tenant organizing. We have a lot of experience in that.

Other examples are the Tabco buildings in the 1980s, where a landlord tried to get away from rent control by converting to quasi-hotel units. We've been able to keep other buildings open. Obviously we're not always talking about the market here. We're talking about social forces, trying to keep people from becoming homeless. It's as simple as that in Parkdale. In Parkdale, it's very simple. You're on the street, you're in a crummy rooming house or you're in a crummy apartment. Trying to keep those apartments affordable and trying to keep them half decent is one thing that we have succeeded at. As my colleagues here are going to point out in three minutes each, that will not be so achievable under Bill 96. I think there will be a lot of problems trying to keep those apartments affordable and trying to keep people from moving into even worse accommodation and trying to keep those apartments in a half-decent state of repair.

I'll pass it on to Anna.

Ms Anna Thaker: My name is Anna Thaker. I've lived in that slum building about 18 years. I am fighting in that apartment more than 10 years landlord after landlord after landlord. What the landlords do is they make money, they leave the building. The Rent Control Act and rent protection, even though it has its faults, we have achieved success because our rent has been frozen since 1990 due to the thousands of work orders issued by the city to the landlords. They have practically violated every law in that building. Because of the tenant act, we took them to court and we achieved success.

At present, any landlord who does not comply with the law could receive a rent penalty. A landlord cannot increase the rent unless they comply with the order. This present government wants to eliminate that. My request is for them to just please come in our building and live and then tell us, with the present law, how we're going to live in that kind of condition.

With the present Rent Control Act we have stable and affordable rent and the living conditions are improving. Not only that, we tried to convert our building into a co-op without any government assistance.

What do you think the landlords will do? They will evict the tenants without any reason whatsoever. They will break the backs of the tenant associations and harassment will increase on a daily basis to make life miserable so tenants won't have a choice but to leave the building.

The government is saying that as long as you live in that apartment the rent will not increase above the guideline. I have one request to the government. Suppose I am living in a bachelor apartment. If I get married and I have 10 kids, should I live in the bachelor apartment? Or should the government say that I cannot have a kid so I can live in that apartment? Because I can overcrowd my apartment, what is the landlord going to do? According to my opinion, I'll be living in a jail, not in an apartment.

In my building tenants are in a low-income bracket and more than 30% or 40% are on social assistance. I have to ask the panel, if the tenant does not have a choice but to move, where are they going to find affordable rent if they are on social assistance? If they have to pay more money than social assistance gives them, who is going to compensate? That is my question. I think the last time I

asked the same question. The government didn't answer that question.

Bill 96 is telling landlords that they can increase the rent as much as they want to. I have one question: What percentage of my income am I supposed to pay in rent? Government is not telling that. If I pay more than 40% or 50% for my rent, how am I going to contribute in the economy? It's not only going to hurt the tenants, it's going to hurt the small business, it's going to hurt practically everyone.

If the government says this proposed Bill 96 is great, how come the builders and developers are opposing it, besides the tenants? In the end, I have to say that this proposed Bill 96 has given the incentive to my landlord to buy this building back again with a highly inflated price which we could not afford, going back to square one, turning it into a slum building. The sad part of everything is that the government will allow him to do that or help him to do that.

One more thing: If we lose our jobs, we go to welfare. Up to now, the government didn't give me the statistics on which landlord had gone to welfare, because government reduced the welfare 21.6%, but he didn't reduce the rent by 10%. My question is why the government is trying to punish only the tenants.

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Ms Jeanie Lee: I'll just go over the two areas of the bill that I think will adversely affect tenants. Those are the supply of affordable housing and the loss of security of tenure.

First of all, the supply of rental housing: The government claims that removing rent controls when a unit becomes vacant will provide incentives for developers to build affordable housing. We heard from the deputant just before us that Bill 96 is no guarantee that rental housing will be built. In fact, they want a lot more done.

We, the Parkdale Tenants' Association, believe it will not do anything to increase affordable rental housing, but will eventually decrease the amount of affordable housing. How will it do this? First of all, by allowing conversions to condominiums. I'm sure other groups have raised these issues before, but I think they bear repeating. All the nice apartment buildings that are in fairly good shape will be converted to condominiums. Right now that is not allowed. Landlords will do this because they can make more money in the short term.

Secondly, it removes restrictions to demolition of rental housing. Buildings can be demolished, if they are on valuable land, to be redeveloped into more profitable properties.

Thirdly, as we all know, the cost of building affordable housing far exceeds the rent that tenants can manage to pay, which is why more rental housing hasn't been built so far. The economic equation just isn't there. We think that even if new housing is constructed after this bill, with no rent controls on those new units, with a fairly low vacancy rate and with the continuing demand for rental housing — because there is a growing population in the GTA and it has been projected that it's going to grow by 4% to 6% per year — even if there are new units built, they will not be affordable for low-income tenants. In fact in other jurisdictions that have lifted rent controls, such as Vancouver and I believe New York in

the early 1970s, there was not a great deal of housing being built. So it didn't work.

The second item is the loss of security of tenure. Right now, tenants are fairly secure once they're in their apartment building and pay the rent. This new bill will allow for easier and cheaper evictions, because landlords will no longer have to go through the court system to evict someone. They will simply be able to evict someone through a tribunal. Not only that, there is now a large financial incentive for a landlord to do so, because once a unit goes vacant, there are no rent controls. So we see an increase in evictions.

Not only that, tenants will have less time to respond to an eviction order through the tribunal than they do now to the court system. Of course, whether an eviction goes through or not depends on the sympathetic ear of the members of the tribunal. These members, of course, will be appointed by the government, as far as we know. There may also be fees to appear before the tribunal, should there be harassment and other situations like that.

Lastly, I just want to say that I heard Mr Leach in an interview on radio recently when the new bill was being introduced. He was asked to explain the lifting of rent controls. He responded that housing is a commodity like anything else and therefore should be subject to market forces. We're here to say to Mr Leach and this committee that housing is emphatically not just another commodity. It is a basic need and it is critical to healthy families and healthy individuals.

The Globe and Mail just this Saturday wrote exactly on this issue, the devastating impact of losing permanent housing. It is a deep and downward spiral for those who end up in shelters and on these motel strips. When social workers were asked what we can do for these families, they said — this is a quote from the same article: "The first and major step is to find them homes that allow them to live with some dignity."

I want to remind this committee that there are motel strips in this city that are dedicated to providing the last resort to families who can't afford the rent and have been evicted and can't scrape together first and last to find another apartment. With the passage of this bill, this situation can only get worse, because after they're out of their apartment, the apartment goes to the highest bidder. We believe it is wrong and in the end economically unsound to force people to bargain in the marketplace with little economic means against other people with much greater economic means for a basic need such as housing.

Mr Poesiat: Thank you very much. We'll cut it short. Maybe there's room for one question, I don't know.

The Vice-Chair (Mrs Julia Munro): No, I'm sorry, but I do appreciate your coming. Thank you very much for sharing your views with the committee.

SUPPORTIVE HOUSING COALITION
OF METROPOLITAN TORONTO
WOODGREEN COMMUNITY HOUSING
ROBIN GARDNER VOCE NON-PROFIT HOMES

The Vice-Chair: I'd like to call on Brigitte Witkowski, from the Supportive Housing Coalition. Good afternoon and welcome to the standing committee. As I

know you have been here, you have heard the instructions that we are trying to catch up with the time we lost earlier, obviously through no fault of anyone. We appreciate your cooperation.

Ms Brigitte Witkowski: I actually did try to edit, so I have given my submission to Mr Prins. Probably by how many days you've sat, you're not the standing, you're the sitting-very-far-back-in-your-seat committee. I have to do this for nerves, a silly joke, then we'll get into the serious stuff.

I'm here on behalf of a coalition of three voluntary sector housing providers. One is the Supportive Housing Coalition of Metropolitan Toronto, one is WoodGreen Community Housing Inc, which is part of WoodGreen Community Centre, and Robin Gardner Voce Non-Profit Homes. Two of the three, WoodGreen and Robin Gardner Voce, are housing providers that rent to both subsidized and market rent tenants. I want to state that.

Though we manage non-profit rather than for-profit rental housing, we believe the essential nature of the business is the same. The core business is housing and renting units. We select tenants for market rent units using the same criteria as private landlords.

All three of us are very concerned over the potential impact of section 200 of Bill 96, and that's what I want to speak to today. In our opinion, authorizing the use of income information to disqualify potential tenants is going to have disastrous consequences for many disadvantaged households and on the rental market as well. Those are two concerns.

We want to ensure the committee is aware that the Fair Rental Policy Organization of Ontario, FRPO — that's how I'll refer to it in my remarks — which lobbied for the legalization of income discrimination, doesn't really speak for all landlords in the province. In fact, when you look at the data, the majority of landlords don't believe in income discrimination. FRPO in this instance is representing the minority of large developers who presently use income criteria to exclude social assistance recipients and other groups which they consider undesirable.

It's important to clarify that section 200 of Bill 96 is about the discriminatory use of income information in tenant selection. It's not about a landlord's ability to ask about income information. Those are really separate. One doesn't mean you can't do the other. As the Honourable Al Leach recently stated, landlords already have the ability to ask for income information, so we don't need amendment to the code to give them a right that already exists.

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Similarly, section 200 is not about the non-discriminatory use of income information. For example, the members of the coalition regularly use income information, in the form of rent-to-income ratios, to determine eligibility for subsidized units and the level of subsidy. However, this use of income information isn't contrary to the Human Rights Code, as it doesn't unfairly disadvantage groups which are protected. The use of maximum-income criteria is meant to benefit protected groups. No amendment to the code is needed to permit landlords to use information in this way either. However, section 200 will

allow landlords to use income information in the form of minimum-income criteria in order to disqualify low-income individuals and families.

FRPO has admitted that the most commonly used income criterion is the 30% to 35% rent-to-income ratio and that this is what landlords will likely apply if section 200 is passed. Professor Michael Ornstein calculated that this would actually result in the exclusion of all social assistance recipients, 92% of all unattached women under 20, 51% of female lone parents and 60% of unattached black women, among others, and I could give you other statistics elsewhere. Apart from the unfairness of this discrimination, we ask that the committee consider the immense consequences in terms of housing policies which are implied by this potential for exclusion.

A building with fewer social assistance recipients, single mothers, families with children and refugee households is seen by many landlords and by much of the public as a more upscale, desirable property. Authorizing the use of minimum-income criteria will allow landlords to screen out those individuals whom myth and prejudice, not reality, label as undesirable tenants. In fact, when presently applied by landlords, minimum-income criteria are rarely, if ever, applied equally to all applicants; they are applied much more rigidly to members of groups that landlords consider undesirable.

FRPO has further suggested that the discriminatory consequences of income criteria can somehow be mitigated as long as the 30% rule is applied in combination with credit and reference checks. Let's just think about this. You take minimum-income criteria in conjunction with other criteria. That's not going to remove the unfair disadvantage which low-income households face. It would be unprecedented for the Legislature to permit a discriminatory practice as long as it is bundled together with non-discriminatory practices. Something wrong covered in something right doesn't make the wrong thing right, and that's really what this is about. In fact, it's going to result in confusion among landlords regarding how income information should be applied and little, if any, improvement for disadvantaged people.

As a case in point, there was an attempt to figure out how to bundle this basket together, and the rules became so complicated that no one was able to follow them. I think landlords really need to know what's legal and illegal and whether it's legal or illegal to exclude disadvantaged groups because of income.

Furthermore, it has been suggested by FRPO that authorizing the use of income information to disqualify low-income households will merely maintain the status quo, because the use of minimum-income criteria by landlords is already widespread. That's not true. A recent survey by N. Barry Lyon Consultants showed that only 17% of small landlords and 40% of large landlords use income criteria. When FRPO says small landlords are particularly vulnerable to default, they neglect to tell the committee that small landlords, on the whole, do not use income criteria.

FRPO tries to reassure the committee that section 200 is permissive, not mandatory, that it permits landlords to discriminate but does not require it. FRPO says that all landlords would never use income criteria because the

result would be hundreds of thousands of homeless and higher vacancy rates. It would again be unprecedented for the Legislature to legalize discrimination using FRPO's justification. It's sort of like saying discrimination against women in employment should be legalized on the basis that it would be permissive rather than mandatory and that only some employers would ultimately discriminate, and you could substitute for "women" any other group you choose.

As an alliance of housing providers, we believe we are in a strong position to assess the alleged business case for using income criteria in tenant selection. It's our opinion that there is no evidence of any valid business reasons for the use of minimum income criteria; in fact the evidence suggests the opposite is true.

Some large landlords like Bramalea and Shelter Corp have tried to justify the use of minimum-income criteria on the basis of minimizing the cost of default, but there is no evidence that income criteria are an accurate predictor of the probability of default. The study commissioned by FRPO which examined tenant default rates and rent-to-income ratios in Bramalea and Shelter is the only study of which anyone is aware that puts these assumptions to a statistical test.

In FRPO's submission, Philip Dewan stated that the survey of tenants at Bramalea and Shelter showed a significant correlation between default and rent-to-income ratios. That's irresponsible. He neglected to tell the committee that the quote he read from ComQuest Research was written before Mr Ornstein had reviewed the data. As Gary McIlravey said earlier, Professor Ornstein discovered that ComQuest had made a fundamental error in calculating the rent-to-income ratios of non-defaulting tenants; when he corrected for that error, he found that the defaulting tenants didn't have a higher rent-to-income ratio than non-defaulting tenants. By the way, when Professor Ornstein's results were presented to the human rights tribunal, FRPO didn't dispute it, and that's important to note. So there's no objective evidence that excluding low-income tenants will reduce default rates.

Surveys have further shown that default is always a result of a negative change in life circumstances rather than an affordability problem present at the beginning. Not surprisingly, people who experience an unexpected negative change may have low incomes when they default. However, this is as a result of the change and is not a justification for disqualifying low-income households when they want to rent.

Mr Dewan argues that because Professor Ornstein predicted that a possible consequence of the unexpected 21.6% cut to welfare would be that tenants would be unable to pay their rent, he was implying that income criteria are a valid measurement of the likelihood of default. In fact, Professor Ornstein was just saying default may result from an unexpected decline in income. Who can predict what happens? None of us is immune to changes in life. We just have to deal with it when it happens, but you don't start disqualifying people on the basis of what might happen.

Tenant self-selection, in combination with credit and reference checks, is the best method of reducing default.

It's important for the committee to appreciate the difference between being a landlord and being in a business in which the primary concern is risk assessment, such as credit, lending or insurance. Landlords are not primarily risk assessors; they're housing providers. If risk assessment based on income was central to our business, there would have been studies on how best to use income information to reduce default; there aren't any studies.

While we want to avoid default, it's a relatively minor component of our business. It's usually less than 1% of our income; that's how small a concern that is. Our major concerns as landlords are mortgage, realty taxes, gas, hydro, water, management, repairs and maintenance, and maintaining good relations with our tenants.

Most businesses rely on consumers themselves to determine what they can afford. Consumers determine what food they can afford, what clothes they can buy and what type of telephone service or cable television to purchase. A telephone company is just like a landlord. The telephone company relies on the consumer to pay for the service on a monthly basis and will incur costs in the event of default. However, the telephone company doesn't attempt to determine whether a household can afford a particular service and deny service to low-income households. In the market for rental housing, self-selection by tenants is traditionally relied upon as the basic principle of selection.

Insurance companies and credit lenders cannot rely on self-selection, because high-risk applicants would stand to benefit; there is no benefit for a low-income tenant to rent an apartment they can't afford. That's the logic of it. No prospective tenant seriously desires to go to the trouble of securing first and last month's rent, hiring a moving van, cleaning and possibly painting the apartment, moving the furniture, paying the installation fees for telephone and cable, only to default on rent and face eviction. It's a heck of a lot of work to do to then say, "I'm going to default now." Eviction is traumatic and humiliating, and afterwards it's extremely difficult to secure alternative accommodation. So I don't think landlords are well placed to determine what a tenant can afford.

Income criteria are not sensitive to important factors such as family composition, household priorities or other sources of income or assistance such as family and community supports. Renters self-select on the basis of complex decisions about affordability. That's rather true. I had a secretary who wanted to rent an apartment and this 30% approach was applied to her. What ended up happening was that they wouldn't rent to her because her income didn't meet the \$30,000 threshold. That fact that she earned \$26,000, that she had a secure job, that she had an ethnic community she wanted to live close to rather than on the fringes of Metro, none of that mattered, and the fact that she was going to lose some costs in order to come to work didn't matter.

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The essential nature of the rental housing business is to provide a basic necessity in exchange for the payment of rent, usually the largest single item in a household's budget. Rent is paid in advance, and prospective tenants are generally required to come up with cash or a certified

cheque for two months' rent before they can even sign a lease. This cash requirement at the outset of the tenancy is in itself a very thorough screen of ability to pay.

FRPO suggests in an example to the committee that if the committee didn't legalize the minority practice of income discrimination, a 16-year-old with a part-time job at McDonald's will be able to rent the most expensive penthouse on the Toronto waterfront, and he also suggested that this is a reality witnessed every day in landlord and tenant court across the province. Well, I stopped to think about it, and my father-in-law lives down at Harbourfront. I thought, "A teenager would have to come up with approximately \$7,000 required for first and last months' rent in a certified cheque." I don't think so. It's impossible to imagine that such an applicant would survive the normal interview process which we use to ensure that applicants are serious and would be responsible tenants. That's business.

There is no evidence that income criteria are superior to the economical and efficient screen of advance payment in cash, combined with a tenant's own ability to weigh the complex determinants of affordability and choose the most affordable and appropriate apartment. The best method for reducing default is to make tenants aware of the exact cost of renting an apartment and then rely on them to make sound choices. Even if income criteria did reduce the risk of default, which on the evidence isn't the case, this benefit must be weighed against any costs of imposing such criteria. The alleged benefit must be weighed against the loss in rental income that comes from restricting the demand for apartments by disqualifying potential tenants.

Contrary to the estimate proposed by FRPO, the study by N. Barry Lyon, consultants on rent arrears, and the study by two large landlords found that on average, legal costs and rent arrears for default were at most less than approximately one and a half months' rent and more likely less than one month's rent. Using income criteria to screen out applicants dramatically reduces eligible renters. This leads to increased vacancy rates. Because of associated costs, having an apartment go unrented even for one month will have a greater impact on profitability than renting to a tenant who eventually defaults. In 1993, Bramalea lost 20 times more rental income through vacancy than through arrears.

Marketing vacant units is a far more important component of the landlord's business than is disqualifying prospective tenants on the basis of supposed risk factors. This means that landlords are more likely to discriminate on the basis of income when vacancy rates are low, precisely when vulnerable households are at the greatest risk of being completely cut out of the private rental market.

Reducing eligible renters on the basis of an untested assumption that renting to more low-income applicants will increase the minimal cost of default is utterly irrational. Default rates could be more intelligently addressed by measures taken after tenants have rented apartments than by discriminatory attempts to assess the risk of default at the time of renting. As a landlord, that's why we have payment plans, because it's far cheaper to keep a tenant in your apartment than have to go through evicting them and marketing the unit.

Finally, a reasonable rate of default is simply an accepted cost of doing business which can be factored into the rent. Every business I know of includes some default costs similar in nature to those of landlords. These costs are built into the price charged for the commodity or service. You go to the Bay and buy a suit and the suit has in it the theft rate, covering their price. You go to a landlord and the landlord's price includes the default rates in the cost of doing business. That's business.

If used properly, credit checks, credit references and landlord references are a valid way of assessing the creditworthiness and therefore default risk of prospective tenants. Therefore, we agree with Chief Commissioner Norton that these selection criteria should not be used to disadvantage young people or newcomers to Canada merely because they don't have, or don't have access to, credit records, credit references or landlord references.

The FRPO submission raises the issue of how one assesses the default risk of a newcomer to Canada or a young person who has none of these records or references. According to FRPO, if a landlord can't refuse such a tenant based on income criteria, the landlord is obliged to rent to the person on good faith. Well, that's not quite true. There are many other ways in which a landlord can ascertain the suitability of a prospective tenant. A concerned landlord could ask for other references. A landlord could interview prospective tenants and discuss their responsibilities as a tenant.

The point is that income criteria should not be used to disqualify such applicants. It just means, be creative. To allow landlords to exclude the majority of young people and newcomers because their incomes are almost invariably low is simply unthinkable. Our experience is that these tenants tend to be very anxious to prove themselves and will go out of their way to pay their rent on time, even where the rent absorbs a high percentage of their income.

It's our contention that many landlords take pride in the fact that what they are providing is a basic necessity. In other businesses that provide the necessities of life, it is not an acceptable business practice to disqualify people on the basis of income level. We accept a higher level of social responsibility in ensuring that no one is prevented from getting housing because they happen to be less affluent. Everyone has a right to decent housing. The Human Rights Code should reflect it. We agree with Commissioner Norton's recommendation that income information be deleted from section 200 of Bill 96 and that the section be amended to clarify that the absence of credit records, credit references or landlord references shall not be the basis of disqualifying prospective tenants.

Thank you for your attention.

The Vice-Chair: Thank you very much. We appreciate your bringing your ideas forward here today.

Ms Witkowski: I'll bounce out of my seat so you can get to the next person.

ONTARIO RESIDENTIAL CARE ASSOCIATION

The Vice-Chair: I call on Rick Winchell of the Ontario Residential Care Association. Good afternoon and

welcome to the committee, Mr Winchell. We are playing a bit of catch-up here with time. We certainly welcome you here and are prepared to hear your remarks today.

Mr Rick Winchell: Thank you for the opportunity to address this committee on Bill 96, particularly the care home section of the proposed act.

As executive director of the Ontario Residential Care Association, I speak for the 300-plus owners and operators who maintain comprehensive standards of personal care delivery for more than 17,000 retirement home residents across the province. Having spoken to many of our residents and their families since the introduction of the Residents' Rights Act, 1994, I believe I also echo many of their sentiments as well.

The Residents' Rights Act was the previous government's effort to regulate, in part, the retirement home sector. It has been an abject failure. The application of apartment laws on care settings, without the necessary amendments to meet the different and changing needs of this special population, has been a source of needless frustration for care providers and residents alike.

For the most part, the care home section of the proposed bill addresses our concerns. More importantly, the section removes restrictions that currently compromise our ability to deliver expected and appropriate care.

We support the return to evening bed checks. The current law prohibits this practice, despite a resident's request or need, without a 24-hour written permission for each and every entry.

We applaud the bill's much-improved resident notice period that reduces a person's or an estate's exposure from as much as 89 days to a maximum of 30 days. The current resident notice provision severely punishes someone who dies or someone who is moved to a higher level of care.

We support the bill's recognition of the increasing demand for respite care. The Residents' Rights Act has no provision for the needs of elderly people seeking short-term convalescent stays.

We also support a process that recognizes the importance of transferring residents to a higher level of care when their needs exceed the resources of a retirement setting. Critics of this provision falsely argue that this places the rental housing tribunal in the position of making medical decisions. These claims are levelled by people who misunderstand the long-term-care referral process. Placement in long-term-care settings requires an assessment by professionals working in community care access centres. Nowhere in the proposed bill is an operator or the tribunal empowered to make medical decisions.

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Under the current law, a lengthy court procedure is required to transfer a person who disturbs the quiet enjoyment of other residents. It's a dangerous and inappropriate practice. Suggestions that the proposed law gives landlords new ways to evict people who are living in care homes is, I think, a misrepresentation of reality. Retirement home residents are not evicted. They are transferred to more appropriate care settings when health and safety risks are identified by qualified medical professionals. It is clearly the humane and responsible thing to do.

We also support the concept of full front-end consumer disclosure. We believe that residents should know precisely what services are expected for the fees they are paying. However, the current legislation requires a very complex and confusing care home information package, CHIP, as well as a detailed residents' agreement. Many residents, and I mean the majority of residents across Ontario's retirement homes, refuse to sign these intimidating and highly legalistic agreements. We believe that a more streamlined and user-friendly combination of the two packages would indeed benefit our older consumers.

Long before the current legislation, a single-page service disclosure effectively served the purpose for thousands of satisfied residents. The Residents' Rights Act has failed miserably to protect a frail population whose average age is 84.5 years. Security of tenure may be very important to a healthy person, but for someone who requires assistance with activities of daily living and whose condition can change overnight receiving appropriate support is the priority.

Bill 96 finally recognizes that the needs and interests of residents in retirement homes are very different from tenants living in an apartment building.

The Vice-Chair: Thank you very much. Because you've been so much briefer, I'll entertain questions from caucus members.

Mr Marchese: Thank you, Mr Winchell. Good to see you again.

Mr Winchell: Good to see you, sir.

Mr Marchese: There are a number of people who have concerns about section 91 in particular, as you know. The group that came this morning, the Canadian Pensioners Concerned, have stated how worried they are about the particular section and its use of the ability to transfer people out. You say that they are not evicted, of course.

Mr Winchell: That's correct.

Mr Marchese: They are transferred to a more appropriate care setting. On the previous page you talk about their being transferred to higher levels of care. The question is, where would they be transferred to, given that, by and large, we have a hell of a time finding a place for people to stay? We understand the concept of transferring, but I think there's a problem in terms of where you would have these folks transferred to. Do you think there's a problem in that regard?

Mr Winchell: There's definitely a problem in under-bedded long-term-care jurisdictions, but I understand that the government is looking at reallocating long-term-care beds. I think it's important to understand that one thing that is working now on behalf of our residents, and it's a welcome change, is that the government has now reversed the previous government's decision to prohibit home care to retirement home residents. Now we are seeing home care being delivered into retirement homes, giving those people who are on waiting lists the additional topped-up care while they await placement in a long-term-care facility.

Mr Marchese: Perhaps you have that information. If it's written somewhere, I'd like to see it. I'm not sure that that's so.

Mr Winchell: You're not sure that what's so.

Mr Marchese: You talked about additional topping-up home care. I know it's a hell of an area to get into in terms of what kind of care they get, if any, the reduced level of care that people are getting. You talked about somehow additional topping-up care.

Mr Winchell: That's correct. I can say unequivocally that through the new CCACs, home care is now being provided for the first time since the previous government took over. Home care is being provided for retirement home residents. That is providing the additional care that they might require while they sit on a waiting list for long-term care.

Mr Gilchrist: Thank you very much for your comments. I appreciate that your perspective, obviously, is of someone who works in that sector. You don't have to speculate; you see the stuff on a day-to-day basis.

There's no doubt we've had some people come in with some concerns about the wording in the act, that the landlord may apply to the tribunal for an order to transfer a tenant if the following conditions are met: the tenant no longer requires the level of care provided and the tenant requires the level of care the landlord is not able to provide. Then the tribunal may only issue an order if appropriate alternative accommodation is available and the level of care the landlord is able to provide, when combined with community-based services that you've just alluded to, cannot meet the tenant's care needs.

Could you give us an example perhaps, to put a human face on this, of the sort of circumstances you face under the current law that you wouldn't under these changes in terms of tenants who may need a different level of care as they age?

Mr Winchell: Certainly. I'd like to preface it by saying that we have said from the outset of the Residents' Rights Act that this is a round peg in a square hole. This is the current government's best effort at trying to fix what I consider a very poor situation. Having said that, yes — by the way, there is a section, just read, about when a person is deemed to need less care — that clearly doesn't refer to retirement homes because retirement homes cover the spectrum from independent all the way through to heavy assistance care. I'm not sure how that fits the retirement sector.

To put a face on it, if we have someone who has advanced dementia and who is disturbing the quiet enjoyment of the other residents, the current situation forces us to go through a very lengthy and I think a fairly destructive court situation. Can you imagine asking the other residents to come on down to court and testify against a resident? It's just an untenable situation. It makes no sense whatsoever.

More important, let's say a person is careless with smoking. We've talked about this in the past. We've got serious problems with a person who has early dementia or advanced dementia and is smoking beyond the rules. We're talking about a very serious safety risk. They go to a place where they can get constant supervision.

Mr Duncan: I want to come back to sections 92 and 93. Section 92 says that a landlord who gives a tenant of a care home a notice of termination under section 51 shall make reasonable efforts to find appropriate alternative accommodation for the tenant. It has been suggested

that that could be amended to say that a landlord who gives a tenant of a care home a notice of termination under section 51 shall be required to find comparable alternative accommodation for the tenant. You support section 93. Would you support that amendment to this bill? If not, why?

Mr Winchell: I'm not sure what you mean by comparable. It's very important to understand. I'm not aware of a single retirement home resident who has ever been evicted using the landlord and tenant term. We're talking about people who require a higher level of care. We're not talking about comparable, we're talking about stepping it up.

Mr Duncan: I think Mr Lightman identified a number of situations —

Mr Winchell: I happen to vehemently disagree with a lot of what he says.

Mr Duncan: Perhaps. I'm not saying he's right or wrong, but they've been identified. You're saying it would only be done either in the interests, apparently, of the individual affected or in the best interests of those around that individual. Then wouldn't it make sense that, if you're a care provider, you should be required to find comparable accommodation? The definition of comparable could be spelled out in regulation.

Mr Winchell: That practice has been going on for years. Now we're talking about higher levels of care. I don't think comparable is the right term at all. We're talking about trying to find heavier, more supervised care.

The Vice-Chair: Thank you very much, Mr Winchell, for appearing here before us today.

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MUNICIPALITY OF METROPOLITAN TORONTO

The Chair: Members of the committee, the next delegation is Alan Tonks, the chair of Metro Toronto. I must congratulate the members of the committee. When I left we were about half an hour behind and now we're only about five minutes behind. Well done. I don't know what that means.

Mr Alan Tonks: Don't stoke up your optimism with me coming before you that you're going to make time. It's not my reputation to help in that respect.

The Chair: I'm sure Mr Tonks will cooperate the way you always do. You may proceed.

Mr Tonks: Thank you very much, Mr Chairman. I'm here in my role as the chairman of Metropolitan Toronto council, just to clarify who I represent. I'm here representing the perspective and the intention of the council, to talk about the proposed Tenant Protection Act and a provision which authorizes landlords to collect income information from tenants, which was obviously the focus of the last few deputants. I know I'm not the first one here to focus on that element.

You may recall that I appeared this summer before the committee on the tenant protection proposals before they were introduced in the Legislature. At that time I raised a number of issues and there are not many of them that have been addressed in this legislation. Metro still has those concerns, and I ask you to reconsider the proposals I had originally put before you.

However, I would like to focus my remarks on the issue of income information, because that's what the council has directed me to do. Put very simply, collection of income information raises the spectre of income discrimination. From two perspectives, you can appreciate why that's important to us: first, we are involved in the devolution issue with respect to housing and, second, we are the operators of one of the largest housing inventories in the social area in the province.

I will indicate for you why Metro has interests beyond that, why the application of income criteria may result in discrimination on the basis of income and why this leads to broader quality-of-life concerns for Metro council.

This issue has been brought strongly to the committee's attention and to the minister's attention by the chief commissioner of the Ontario Human Rights Commission. In fact I am here today because the chief commissioner's position was brought to the attention of the council, which then adopted a motion referring to the chief commissioner's letter and endorsed his concerns. That council motion is being submitted to you for background information.

Why is Metro interested in this question? Because we are all too familiar with the affordability problems of low-income tenants in the Metro Toronto market. Metro administers a GWA system supporting 83,000 recipients. The municipality will soon administer other forms of social assistance, potentially supporting another 65,000 households in Metro. We house 21,000 low-income households in our housing company. We have another 38,000 applicants waiting on the housing registry waiting list and we operate that list jointly with the provincial housing authority. We run by far the province's largest hostel system, accommodating an average of 3,100 people per night. Housing problems are a very large part of life of the people using these municipal services and we must be concerned about changes that will affect their housing situation.

The question at hand is the practical effect of legislation which would allow landlords to apply income criteria in selecting tenants. At a recent lengthy Human Rights Commission hearing inquiring into landlords' use of income criteria, landlord representatives argued that a 30%-of-income criterion was a sound business practice. This was cited as a traditional indicator of where rental affordability problems start. In other words, if the rent payable amounts to over 30% of a tenant's income, the landlord considers that tenant to be a poor financial risk.

A decision on that case is still pending, but there is no doubt that many landlords are applying this criterion at this present time right across Metro. I recognize that the bill does not speak to such a criterion, but without clear limitations on the use of income information by landlords this will be the practical effect.

While this business practice sounds reasonable in theory, I propose to provide you with a reality check on the situation of low-income households renting in the Toronto market. I will cite for you some statistics on rent and income based on 1991 census data. First of all, please note that most low-income people are, and I stress this, renting units in the market rather than in social housing. Among Metro tenant households with incomes

under \$41,000 the majority living in market units paid over 30% of their income on rent. Among those with incomes under about \$23,000, some 62,000 households paid over 50% of their income on rent. Those are staggering statistics.

We know from national and provincial data that affordability problems have become much more common in the 1990s. We are awaiting with some trepidation the 1996 census rent-to-income data for Metro so that a similar analysis up to date can be made. However, as a provider of social services, Metro is also aware of other indicators in addition to census statistics.

First, housing waiting lists: Virtually all those 38,000 households on the waiting list currently pay over 30% of income in rent, many of them far more than that. Every month that waiting list just keeps growing, as the population of greater Toronto grows but its supply of affordable housing does not.

Second, welfare recipients: Welfare recipients receive a basic allowance which is intended to cover items such as food, clothing, transportation and children's needs, plus a shelter allowance which varies depending on the amount of rent being paid. In May 1997, the most recent data, 63% of the welfare caseload, or 52,000 households, paid over the maximum shelter allowance on rent. In other words, they are cutting into their basic allowance that should go for food, transportation and so on just to cover the rent. About 29,800 households were paying more than one quarter of their basic allowance on rent, on top of their shelter allowance. In fact, any family household on welfare paying over \$511 a month, the price of a low-end bachelor or a basement apartment, is cutting into their basic allowance to pay the rent. These households are paying well over 30% of income in rent and often over 40%.

The point to be made is that it's very difficult for low-income tenants to find housing they can afford without squeezing their budget. This is true whether they are on social assistance or whether they are among the much larger number of working poor. Paying less than 30% of income on rent when you have a low income, under about \$20,000 to \$25,000, is usually just dreaming.

Clearly, considering the statistics I have been citing, the effect of applying a 30%-of-income criterion, or even a 35% or 40% criterion, will possibly deny low-income people the opportunity to rent an apartment that is anywhere near average rents. They will only have available to them small or bottom-of-the-market units, regardless of what their family really needs. The effect is discrimination against low-income people.

The existing Ontario Human Rights Code contains a provision prohibiting discrimination in the matter of accommodation on the basis of a person receiving public assistance. The very point of this provision is that housing is a basic right, even for low-income households. They may not be able to get Visa cards and car loans and other things that most of us take for granted, but they must have shelter. They should not be denied housing on the basis of an arbitrary percent-of-income criterion that a landlord applies as a "good business practice." These households will tell you that they will stretch their budget

to pay for housing, as is evident from the figures I have cited to you.

The principle that underlies that provision of the Ontario Human Rights Code should guide this legislation today. Social assistance recipients and others with low incomes cannot afford housing at a rent based on 30% or 35% of income. Authorizing landlords in the Tenant Protection Act to consider such criteria could well lead to discrimination based on income, precisely what the Human Rights Code stands against.

Let's go one step further. If landlords do apply an income criterion — 30%, 35% or whatever — to deny accommodation to low-income tenants, what happens to these households? Where do they go? There will always be other places you can rent but, in return for fewer questions being asked, the landlord may feel less obligation to maintain the building, even if the rent is just as high, or may not operate by the book, knowing that tenants have few other options. There will also be smaller units at lower rents, but at what social cost to the family living in those cramped quarters? There are basement apartments or other units, but in closer quarters with landlords. In sum, options become limited. In extreme cases, these households may become part of our homeless.

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At our Metro Housing company, we have concerns as social housing landlords about maintaining a social mix in our buildings. This philosophy extends to the community at large. We have all heard of the social problems that can arise with all-low-income-household buildings. That is why we strive to maintain mixed-income social housing. Left unchecked, there is a fear that this sort of income discrimination could reinforce a disturbing pattern we see emerging more strongly in Toronto of growing differences between the upscale or middle-income parts of town and the not-so-upscale areas. Social division and polarization in this city are becoming much more evident, moving Toronto in a new and I would say extremely undesirable direction.

All in all, the financial risk faced by landlords if they cannot utilize income criteria may pale by comparison to the social consequences. Metro, as the provider of social services, will be left to deal with these consequences.

This is not to ignore the legitimate business concerns of landlords. Rent is by far the largest monthly commitment most tenants make. A tenant with a \$1,000 monthly income paying \$800 in rent is likely sooner or later to run into problems, which become the landlord's problems too. In fact, our Metro Housing company has these same legitimate business concerns about ability to pay when it comes to tenants in our own market rent units.

We have to realize that the tenant is at least as much aware of this issue as the landlord. A tenant generally won't rent that \$800 unit on a \$1,000 income. Tenants don't need the landlord to dictate to them that they cannot stretch beyond 30% of income, or 35% or 40%, to pay the rent when, based on the statistics I cited earlier, most have to.

Landlords have other ways of safeguarding their legitimate business concerns. Landlords have, and must continue to have, the ability to do credit checks and

checks of previous landlord references. These are what reveal a real risk to the landlord, not the fact that a tenant with a \$1,200 monthly income wants to rent a \$500 apartment. There may also be cases where landlords should legitimately be able to ask for cosigners as guarantors, perhaps in the case of tenants with no credit or rental history.

In conclusion, let me return to the issue before you: whether to allow landlords to require income information from prospective tenants. I urge you to reconsider the social consequences of doing so. I remind you again that Canada and other countries have signed a United Nations declaration committing ourselves to goals that include adequate shelter for everyone, preventing homelessness, and equal access to affordable housing.

We must maintain the housing choices open to low-income households, not restrict them. Our aim should be to reduce the number of households requiring subsidized housing and those who, when all else fails, end up in our hostels. Without providing strict controls on the use of that income information, the provision before you can work against those very basic principles.

On behalf of Metro council, I urge this Legislature to delete the reference to income information in the proposed Tenant Protection Act.

The Chair: Thank you, Mr Tonks, for your presentation this afternoon. We have your written presentation and supporting material. I know all members will review both those documents. Thank you again for coming.

Mr Mike Colle (Oakwood): No questions?

The Chair: Unfortunately, we're out of time. I know you all would like to ask questions, but we're out of time.

W.J. REALTY MANAGEMENT

The Chair: The next presentation is W.J. Realty Management, Sam Grossman. The floor is yours, Mr Grossman.

Mr Sam Grossman: Thank you for the opportunity to address this committee. My name is Sam Grossman. I'm here representing W.J. Realty Management. Our company has been in the business of building and managing apartments in Ontario for approximately 40 years now.

Most of the apartments built by us still remain in our portfolio. We consider ourselves long-term landlords. We have always taken pride in our ability to use good, solid management practices in order to maintain and manage our apartments. This, in turn, we feel has enabled us to foster good tenant relationships as well as excellent relations with our numerous employees and tradespeople.

We've reviewed this proposed Bill 96, the Tenant Protection Act, and we're quite concerned over some potential negative impacts to our business of certain sections, which is what I'm here today to address.

The first section I would like to deal with is vacancy decontrol. This is the most significant change in Bill 96, the introduction of vacancy decontrol, which is really one of decontrol and recontrol, since the unit is subject to restrictions on increases after rental.

Few people realize that this vacancy decontrol will benefit mainly the minority of units with rents which

have been significantly depressed by rent controls over the years. Both to provide fair returns to owners and to ensure they have the ability to maintain these units in the housing stock in the future, it is vital that at some point these depressed rents be allowed to rise to current market levels. But there should be no mistaking the fact that this will happen slowly, over a long period. Units with bargain rents are obviously those most coveted by knowing tenants, with low turnover in these units being the result.

For the majority of units, vacancy decontrol is a valuable linkage to the market but will have little impact in the short term. Tenant advocates have stated publicly that average rents in the province will go up by 20% to 30% as a result of vacancy decontrol. I'd like to be clear that there's no support for such statements. No evidence, no studies, no reasonable basis for argument have been offered. It simply will not happen. In our own portfolio, we do not have a single apartment unit which we would ever consider raising by such a percentage.

In order to emphasize this point, I have attached to my written presentation copies of a small sampling from just two of our buildings which illustrate vividly how we are not charging even the presently approved legal maximums.

If you refer to some of the attached notices of increase which I have shown you and you look at line 3 of those items, you will see what the new rent charges to those particular tenants will be. If you look below that, opposite "Calculated Maximum Rent," this is the maximum legal rent which we would be entitled to charge for such units. If you want to look at the discrepancy between those, you can readily see that we're charging on some of these units anywhere from \$80 to \$100 a month less than the current legal maximum. Therefore I would say it's obvious that we couldn't even think about larger increases, since we're not even able to charge the current legal maximums.

In Metro Toronto, the present vacancy rate is 1.2%. CMHC's own study concluded the impacts of vacancy decontrol will be minimal. Vacancy rates are on the rise again. A joint study which they released in 1996 found that at least 50% of units already have rents below their legal maximums. Again, I refer you to my examples. These units are effectively decontrolled. There is no restriction on our ability to increase the rents back to maximum, save for the simple fact that the market will not sustain an increase. Conditions have allowed tenants to bargain prices downward.

Even in the remaining units, potential increases on vacancy are modest. A report commissioned by the government last year examined the issue of potential rent increases in unprecedented detail. Economist John Todd's analysis demonstrated that even assuming the complete removal of rent controls, rent increases would be limited in both number and magnitude. Most significantly, he refuted the allegations that vacancy decontrol would have horrendous impacts on low-income tenants. I quote from his report: "Overall, the availability of low-priced units to low-income households is not likely to change significantly."

As well as looking at what can reasonably be expected to happen in Ontario, there is another, real-world test of such a program: the experience of other jurisdictions with vacancy decontrol in place. It is interesting that the critics of vacancy decontrol have not presented one word of evidence to demonstrate the "massive" rent increases they allege such a program allows in cities like Vancouver or Los Angeles. The reason is obvious: The evidence does not exist. Vacancy decontrol functions very well in jurisdictions where it is in place.

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To cite just one example, the average rent increase for a two-bedroom unit in Vancouver last year, under vacancy decontrol, was 2.3%, or half a per cent less than the rent control guideline in Ontario. Average rent changes for other unit sizes ranged from a 3.3% to a 1.2% decrease, even though the market is as tight in Vancouver, with a 1.1% vacancy rate, as in Toronto, with its 1.2%. So much for the threat of vacancy decontrol.

The next issue I would like to address is decontrols in a soft market and the loss of legal maximum rent. The reason the idea of maximum rent was introduced by the Liberals and maintained by the NDP was that it recognized the desirability of allowing landlords the flexibility to move rents down when demand fluctuated, something they would be willing to do only if rents could rise up again as markets recovered. The current proposal would allow the rent to rise back to the market level only on vacancy, meaning there would be a real loss in income for so long as the tenant remained in place.

The result would be that landlords would stop discounting rents in soft markets, such as prevail in most of Ontario today. A landlord who is now taking the guideline rent increase because of market conditions would be forced to adopt a "use it or lose it" strategy under these proposed rules, charging the guideline increase so as not to lose it for the future, even if this meant increased vacancies. The result of this would be higher average rents for tenants, something I am sure was not the intention of this government.

It's important to remember also that landlords such as ourselves have earned these legal maximum rents because of conscientious investment in property but could not take increases due to market conditions. Therefore we should have the flexibility to adjust rents should conditions change in the future. It becomes critically important to ensure that the discounting rules which are prescribed relative to section 113 of the bill are sufficient to maintain this right.

On the subject of discounting, having explained its importance in my previous section, I would like to say that we are most concerned over the absence of detail contained in section 113, which refers the issue to accompanying regulations which apparently do not yet exist. Because the regulations are such a vitally important part of this legislation, it is extremely necessary for us to be given the opportunity to comment on drafts of these regulations prior to their being finalized.

We note that your own ministry has established precedents for the issuance of draft regulations for comment under Bill 98, the Development Charges Act, on March 24 of this year. We respectfully suggest that

there are equally important concepts under this Bill 96 which need to be fleshed out through regulations.

We also feel it is appropriate to raise the details of the discounting formula which we would advocate, keeping in mind the soft market factor described in section 2. We propose that the equivalent of one month's rent spread out in equal monthly instalments over the annual lease term would be appropriate. In my example of a monthly rent of \$750 per month, that would equate to a monthly discount of one twelfth of that amount, which comes to \$62.50, which would enable a net monthly charge initially of \$687.50. It should be noted that the landlord would be entitled to maintain the above discount so long as the current tenant remained in occupancy.

In addition to this, we feel it would be more appropriate to increase the discount up to two months, if required, in the first year only of an occupancy. This would not only help to compensate for the effects of a soft market but would also enable a willing landlord to provide assistance to a tenant with a temporary financial problem. If not utilized in the second year, the additional month's discount would then become null and void.

The final point I would like to address is the human rights provisions under sections 36 and 200. I would just like to preface my written remarks by making a few comments, because I've heard from some of the earlier speakers here today on this particular issue. At the outset I have to say that I really think there are some things being taken entirely out of context and other things which are rather difficult to understand.

The first thing that's being taken out of context is that the use of income criteria is something new and revolutionary that hasn't been done in our business before. In the 40 years that we have been landlords in this province, income criteria have always been one of the considerations that have been used in deciding whether to rent an apartment or not.

The often quoted figure of 30% of income or, as Mr Tonks mentioned, 35% or 40%, whatever criteria you want to use, has never been used by most of the landlords I know as any sort of absolute criterion. It is simply one criterion that landlords have to use in determining whether to grant credit, which is in effect what they're doing, to a prospective tenant.

Interruption.

Mr Grossman: Excuse me. May I finish my remarks? I didn't hear anybody else being interrupted here.

The Chair: We've been doing so well today, ladies and gentlemen. If you could just hold off, it won't be long. Thank you.

Mr Grossman: Thank you.

In any case, what I wanted to say is that we didn't remain in business for the last 40 years of renting apartments and being landlords by being totally out of touch with the realities of the marketplace. We know who our tenants are. We know very well what income conditions are in the greater Toronto area today and we are familiar with income levels of the people who apply for our apartments. We are also keenly aware of the effect that vacancies have on our apartments, and we know very well that we cannot afford to unnecessarily incur such vacancies.

There are other things mentioned, which of course any prudent businessman would always use, such as seeking guarantors in cases of low income, seeking sources of other income. These are all factors which any prudent businessperson would consider. However, we feel it is ridiculous to deny a landlord who is in the business of granting credit to tenants the right to attempt to judge their ability to pay, and we feel that, where insufficient, they should be refused accommodation. I don't think that any reasonable person would dare to suggest such a practice in any other type of credit business, and we therefore strongly urge that the status quo be maintained. I would like you to particularly note that in most other —

The Chair: If I could interrupt, you have one minute left, please.

Mr Grossman: Okay. In most other credit granting business, losses are limited to specific amounts, but a landlord's loss for a non-paying tenant is not limited to any specific amount because he has squatter's privileges and he thus causes the landlord future losses for unknown periods of time.

If the status quo were interfered with, I can assure you the effects on our business would be chaotic due to the staggering losses we would suffer in uncollectible rents. This in turn would have the ultimate effect of raising rents to good tenants, since this would be our only way in our controlled business of recovering our losses.

The Chair: Thank you, Mr Grossman, for coming this afternoon.

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CANADIAN MENTAL HEALTH ASSOCIATION

The Chair: The final delegation this afternoon is the Canadian Mental Health Association. I have two people listed: Ruth Stoddart, manager of policy planning and development, and Glenn Thompson, executive director. Good afternoon.

Mr Glenn Thompson: Good afternoon, Mr Chairman and members. Thank you very much for seeing us.

The Chair: Believe it or not, I think you're the first delegation where we're actually on time, so if you could proceed, we'd appreciate it.

Mr Thompson: We'll try to keep you that way. At this point in the session, I'm sure you may feel a mental health association is the appropriate group to see from your own point of view. We have stress-in-the-workplace assistance available at the door if you feel the need.

The Chair: You should see what's going on upstairs.

Mr Gilchrist: I was going to say, we need you every day with the folks opposite.

Mr Thompson: You've introduced us, Mr Chairman, so I won't repeat that. Our plan is not to try to repeat the content of the document that we've put before you — it's quite long and complex — but we want to spend a bit of time on the areas that are of most concern to us. At the same time, I guess I'd say, since we're proud of the piece that we've written, we hope you'll see it as a piece because I think it does hang together in a conceptual way. When you have an opportunity, I hope you'll spend the time looking at it in that kind of way.

It's especially important to us that you separate out in your considerations the concerns around this bill as they

may impact on people with mental disorders. That's our particular field of interest and, more than anything else, we want to be sure that those individuals are not disadvantaged by changes in legislation and indeed, if possible, that they can be advantaged because there are certainly situations where difficulties occur at the moment.

I think most of us probably in this room have someone in our immediate acquaintance who has a mental disorder. There's very little for those people in life that's as important as housing accommodation. It literally and figuratively is a platform for everything else that happens. We can spend extraordinary amounts of money on psychiatric care and the like for individuals, but if we don't have a platform, a stability, for those individuals, most of that goes down the drain. I think you'll find that if you speak to people who have a mental disorder — it may be so evident that one wouldn't even have to do that — the fact of the matter is that many people who have a mental disorder are living in very severe economic situations. It seems to go together and therefore housing becomes critical for them.

First, a word about CMHA, in just a word or two. We're a non-profit, volunteer-led, charitable organization. We've been around in Canada since 1918, in Ontario for about 45 years. We have 36 branches in Ontario. We deliver a good deal of the direct housing services for mentally disordered people through government funding. We're a significant provider, we feel, and our branches would feel they have a very significant part that they're playing and a strong opinion on these matters. They would see housing for disabled persons with mental disorders as a right, as something that is just simply key to all the other things that one does in working with those individuals.

Obviously that housing needs to be affordable, it needs to be decent, it needs to be accessible, safe, well maintained and stable. The supports that are provided to people in that housing need to be flexible in part because the individuals — if you know something about mental disorder in your family or among your friends, you'll know that the illness is a very cyclical one. People don't altogether, in many cases, get better. They get better and then they drift again. Whatever we do in a housing sense in this landlord and tenant legislation needs to relate to that, has to accommodate to that fluctuating illness. It isn't like a broken leg, where you're laid up for a while and get better as a result of good care and literally get back on your feet. Relapse is a reality and permanent cyclical problems are a reality.

We think that costs must be geared to the low-income potential of the people we represent, and rent controls of some sort and notice periods are essential to make that possible. We think that vulnerable people are not going to be in a position to negotiate to take on the kind of position that other individuals may be able to take on in relation to landlord and tenant matters. Often they're just simply not physically and mentally able to do that. To have that written in as a requirement for them is a bit of a fiction really in terms of what will be the reality.

We think access has become a very serious problem. With no shelter allowance, with reduced GWA and with lower building of accessible and affordable housing,

there's going to be a growing problem, we foresee, for people with mental disorders. Thank goodness, I would say, that long-term care has a growing and developing program and a significantly funded one in Ontario because there are many, many people — those of us who are aging quickly are probably in many cases going to require assistance that relates to mental disorders, so that's a very important aspect of long-term care. Those two programs fortunately are coming more closely together.

I'll hand over to Ruth Stoddart to pick up from there.

Ms Ruth Stoddart: There were three specific areas of the new legislation that I wanted to discuss in a little more detail. The first one is to do with the Human Rights Code. From the previous speaker's comments, I understand that this committee has been hearing a fair bit about these proposed provisions. The Human Rights Code as it presently exists prohibits discrimination on various grounds, and two of those grounds right now are disability and receipt of public assistance. Our organization well understands that landlords do require certain things from prospective tenants such as credit checks, references, rental histories, the usual things that landlords would get from someone applying for an apartment.

Our large concern, though, is that if landlords are allowed to use so-called income information to essentially pick and choose tenants, far more people with low incomes are going to be denied housing than presently occurs. A prime example would probably be the one on the front page of this morning's *Globe and Mail*. There was a large story about a woman living in a shelter. As soon as landlords heard she lived in a shelter they refused to rent to her. Not only people on social assistance but vulnerable people and particularly people with mental illness who are on limited incomes, if landlords are now allowed to discriminate on the basis of income, are going to have an even more difficult time than they do already finding decent housing in which they're able to live.

The second area I wanted to talk about, and there are two parts to this one, was the care home provisions in the proposed new legislation. The first concern that the CMHA has is about the exemptions from landlord and tenant legislation that are allowed for care homes. It will be the new clause 3(k) of part I of the legislation. Essentially it allows care homes to be exempted from Landlord and Tenant Act provisions for various reasons, including that the accommodation is intended to be for no more than one year.

I could certainly argue either side of that one year. For example, someone who's having a hip replacement probably will not need care for a year. The other side of the argument would be, for example, with the downsizing of institutional services by community and social services, there's going to be a large number of people with severe developmental disabilities who may end up in care homes. To use this legislation to move those people from home to home on a year-to-year basis certainly upsets any kind of stability they would have.

Our branches have indicated to us that most people with mental illness tend to stay in a care home situation between one and two years and that this one-year provision would be very difficult for them to accept. If they operate under the Landlord and Tenant Act, then a lot of

the care provisions don't take effect, and these branches have chosen to operate under the exemption for care homes so that supports can be provided for people. As I say, however, they've indicated that the one-year limit would pose a large difficulty. What we suggest is that for those care home operators who are applying to the tribunal for an exemption, the tribunal perhaps consider on a case-by-case basis how long that exemption should be rather than having a blanket one-year exemption that's intended to cover all people with all sorts of disabilities in care homes.

The other large area of concern to us, also to do with care homes, has to do with the proposal regarding transfers of tenants in and out of care homes. The new legislation proposes that a tribunal can determine that in cases where a tenant needs more care or less care than they're currently getting in their accommodation and if appropriate alternative accommodation is available for the tenant, the tribunal can issue an order having the landlord evict that tenant and they move. We have several problems with this proposed part of the legislation, not the least of which is in a lot of areas of the province there just isn't appropriate alternative accommodation available and I don't know where these people are going to end up.

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A secondary problem is that a tribunal can issue an order on the landlord's instigation to remove a tenant from a care home, but there's no mention of any sort of advocacy or assistance on the part of the tenant in the care home. People who do not read, who do not read English, if they're handed a legal-type document, may not comprehend what that document's about or what it's going to do to their housing and to their supports.

A far larger concern about the transfers in care homes is the apparent conflict of this part of the legislation with the Ministry of Health's mental health reform process. That process emphasizes that people should be able to receive services according to their needs, that services and supports should be separate from accommodation, which was a lot of the reason for the original change from the Landlord and Tenant Act to the Rental Housing Protection Act, which separated accommodation and supports.

These sections about transfers in care homes suddenly appear to be not disregarding but acting contrary to the Ministry of Health's mental health reform policy. We believe that rather than having someone move if their care needs increase or decrease, as has been indicated by the Minister of Health, that person's supports, which should be coming in and out of the accommodation to them anyway, should be increased or decreased, particularly with people with mental illness. As Glenn has stated, their illnesses are often cyclical, and to think of moving a person every three months or every six months back and forth would involve a huge amount of disruption not only to that person but also to the landlord.

In conclusion, I'd like to say that the Canadian Mental Health Association believes that housing is a right and that the proposed legislation seems to confuse the supports that many people require with their rights as tenants. Again, this is the conflict between housing and health or community and social services. We believe that anyone, including people with mental illness, who lives

in housing that offers support services has the right to both affordable housing and security of tenure, as do all tenants in Ontario.

The Chair: Thank you, Ms Stoddart and Mr Thompson. We appear to have time for questions if the members of the committee — you look as if you don't want us to ask you questions.

Mr Thompson: We're here for them.

The Chair: Let's try and see if they have any. I don't know where we are. Mr Colle?

Mr Colle: Thank you very much for bringing something to our attention again that sometimes we forget about. In terms of your initial statement about the trends and the pressures on housing as it relates to people with mental disorders and so forth, what signs are there that there's a growing demand and a growing shortage of accommodation that's affordable and available?

Mr Thompson: I think the best evidence is the plan that the previous government had to put in place a great deal of non-profit housing, which some of us thought was aimed at the right numbers of disabled people and others. The truncation of that program has provided difficulty. The population growth continues, the growth of the aged population continues, and I think the numbers of mentally disordered persons, both among the growing younger population and the seniors, is going to put a growing demand on all the supported housing for people with mental disorders.

There's not much doubt that there's a growing population of that group in the community and in a sense we're glad that the population of people who are mentally disordered is out in the community as opposed to in institutions. As all of you will know, the Ministry of Health has embarked upon a major downsizing of hospitals, including psychiatric hospitals. Of the 10 provincial psychiatric hospitals that have housed people for many years, many of them are closing altogether within about two years.

There are going to be substantial numbers of people in the community requiring what some people call wrap-around psychiatric care, a very intensive kind of care — assertive case treatment teams is what the Ministry of Health is calling the teams they're putting in place. They have one in the London area now and several others are being put in place right away to assist people with serious mental illnesses to live in the community. All those people are living in the community. There are growing numbers of them, and they're going to require accommodation that's continuous and safe and reasonable for them, hopefully in their own community. In the future, hopefully they won't be coming from a hospital; they'll be staying in their community.

That's our concept, that many dollars can be saved and many people can be saved, in a sense, to remain in their own community if we engineer it properly. But housing is a major part of that engineering.

Mr Marchese: I do have one question. We had Rick Winchell from the Ontario Residential Care Association. He recognizes the importance of transferring residents to a higher level of care, he says, and he objects to people speaking about some of these folks being evicted. They would be transferred, he argues, to a more appropriate care setting when health or safety risks are identified. The

example he used was of dementia. I'm assuming he means Alzheimer disease, but there could be possible variations?

Ms Stoddart: There are various dementias, yes.

Mr Marchese: Part of my question was, where do these people go? As far as I know, there are waiting lists. He's saying they should be transferred somewhere. I thought you mentioned that part of what you're talking about in terms of providing services and support versus accommodation is that if someone needs an additional level of service, you provide that, you negotiate for that. He's saying, "We don't have that level of care; therefore, we're going to help them to transfer somewhere else."

There are two problems. First, where do they go? Second, how that is used in terms of as a tool to get rid of some people they don't like, and third, how come they don't think about providing the level of service to meet that different need? What is your response to Mr Winchell?

The Chair: Mr Marchese, we've got a problem. We've got about three minutes left and I think you've used your time.

Mr Marchese: All right, a quick response.

The Chair: I know that, but I'm going to ask Mr Gilchrist. There's no time to respond.

Mr Gilchrist: Thank you both for coming before us here today and ending our session. I'd just like to clarify if I could, Ms Stoddart. You made a comment at one point in your presentation that there was no advocacy and that there was no one speaking on behalf of the people that you saw possibly being affected in sections 92 and 93. I would like to draw your attention to section 4. Absolutely every single one where there isn't agreement goes to mediation. These will be mediations of people expert in the field and nothing in this —

Ms Stoddart: That's not advocacy, though. I'm sorry.

Mr Gilchrist: You're presuming something and I think slighting those who would be in that position. You're fully aware of the CCAC provisions right now, and to presume that anything's going to be reduced — I think the wording is very clear. If someone is in need of a higher level of care than is currently being allowed, if that higher level is not available, the tribunal will not allow the transfer. It will not allow things to go back. In deference to my colleague over here, I must correct him. People will not be thrown on the street. The landlord would not be allowed to transfer out if there's no place to go to.

Mr Marchese: Let's hear their response.

Mr Gilchrist: I am curious to know, with the section in there that says absolutely everyone will have someone advocating on their behalf, there will be mediation, and absolutely to the same standards that the CCAC has in place today, why is that not appropriate?

Mr Marchese: Stop.

The Chair: I'm going to stop it. I'll say stop. Please proceed.

Mr Marchese: There's still one minute.

Mr Thompson: May we respond, Mr Chairman?

The Chair: Yes, please. Very briefly, because bells are ringing.

Mr Thompson: I think it's a question of the difference, as Ms Stoddart is saying, between advocacy and

mediation. Our concept would be that many individuals will need more than a mediative process. But I think it's really important to pick up the earlier question, to put together the housing supports with the psychiatric care. If there's a wraparound kind of system for that seriously mentally ill person, they're not going to survive just with housing or just with psychiatric care. It has to be a combined affair between the two ministries, which is —

Mr Gilchrist: We agree.

The Chair: Thank you, sir, and Ms Stoddart, for coming this afternoon and making your presentation. You've given us material which we will read. That concludes —

Mrs Julia Munro (Durham-York): Mr Chair, I have a question. One of the earlier presentations included information that gave people's names and addresses —

Interjections.

The Chair: Could I have some order, please.

Mrs Munro: I'm actually asking for legal advice here in terms of this being on the public record, if there is a mechanism here or we need to consider that it not be.

The Chair: You'll have to repeat. I don't think members of the committee are —

Mrs Munro: The presentation that was given to us earlier this afternoon included people's names and addresses.

The Chair: Oh, on the forms. Yes, privacy you're —
Mrs Munro: Yes.

The Chair: Unfortunately, Mr Grossman was the presenter, as I recall, and he has left. I quite agree with you, although the committee doesn't have control over documentation that is presented to us. It's not that the committee presented documentation.

Mr Marchese: Sometimes you might advise them before they read it that there are some liability questions when people do that.

The Chair: That's right. The names were not referred to in the record. Meanwhile, members of the gallery have it, members of the committee have it, and it may be kind of pointless to start blacking things out, and who knows?

Interjections.

The Chair: Order. The Chair is going to take the position that we do not have control over documentation that is given to us. We have control over documentation that the committee presents. But thank you for your comment.

Mr Gilchrist: And we will not disseminate it further.

The Chair: Absolutely.

That concludes this afternoon's proceedings. I'm going to adjourn the proceedings until August 5 at a time and place which will be announced.

The committee adjourned at 1801.

ERRATA

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First Session, 36th Parliament

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Première session, 36^e législature

**Official Report
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(Hansard)**

Tuesday 5 August 1997

**Journal
des débats
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Mardi 5 août 1997

**Standing committee on
general government**

Tenant Protection Act, 1996

**Comité permanent des
affaires gouvernementales**

Loi de 1996 sur
la protection des locataires

Chair: David Tilson
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Tuesday 5 August 1997

Mardi 5 août 1997

*The committee met at 1002 in room 151.*TENANT PROTECTION ACT, 1996
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Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

CANADIAN MANUFACTURED
HOUSING INSTITUTE

The Chair (Mr David Tilson): Good morning, ladies and gentlemen. We are holding public hearings with respect to Bill 96. We have before us Doug Barker of the Canadian Manufactured Housing Institute. Good morning. You'll notice that not all members are here, but we've got a time restriction. If we want to keep to our time frame, we have to proceed, so if you could proceed, that would be appreciated.

Mr Doug Barker: Thank you, Mr Chairman, and good morning to everyone. I would like to thank you for the opportunity to appear before the committee to make this presentation. Just to introduce CMHI, the Canadian Manufactured Housing Institute is a national association representing the manufacturers of mobile and modular homes, together with the suppliers of goods and services to the industry, community owners and park operators. Of our approximately 19 manufacturer members across Canada, six are located in Ontario and contribute significantly to the Ontario economy.

CMHI also works closely with provincial associations across Canada, and this committee will have an additional presentation from the Ontario Manufactured Housing Association during your hearings.

Some members of the committee, others of the Legislature and staff, may recall that CMHI has previously been active in assisting in formulating legislation for mobile home parks and land-lease communities. We support now, as we did then, legislation that gives fair and equitable treatment to both tenants and landlords, and we applaud your intent to consolidate the six existing pieces of legislation into the one new Tenant Protection Act.

Our comments will be specific to the mobile home and land-lease communities portion of the legislation. The legislation specifically defines "mobile home" and "mobile home park" and "land lease home" and "land lease community."

Mobile homes and mobile home parks are generally communities of older-type homes that have been in existence for a number of years and have modest services and amenities. Frequently they are owned and operated as small family businesses. Conversely, land-lease communities generally are more modern facilities specifically developed with up-to-date services and amenities and are often targeted at the lifestyle retirement community age group.

Both developments provide the opportunity for the tenant to maintain equity and pride of ownership in a low-maintenance, single detached unit situated in the community at an economical price. These communities have pioneered the concepts of alternative development standards and privatization of services that are now becoming acceptable in other municipalities.

We firmly believe mobile home parks and land-lease communities have a significant role to play in providing affordable housing for the residents of Ontario. We wish to speak to the intent of the new legislation by offering the following specific comments.

Our first pertains to the rent control guideline formula. The intent of the legislation is that tenants in mobile home parks and land-lease communities receive the same protection as tenants in other rental accommodation. That is fine; that's a given. However, the legislation currently does not, but must, recognize the special maintenance and operating provisions needed for mobile home parks and land-lease communities. Legislation must acknowledge and address this situation.

For example, the annual rent increase guideline is apartment oriented and comes from a formula based in part on the increases in costs for heat, hydro, water and property taxes. The weight given to each of these components is supposed to reflect the average percentage of an apartment's operating costs attributable to each factor.

The situation is entirely different in a mobile home park or land-lease community. In those situations, the heat is paid by the tenant; water and sewer charges vary greatly depending on whether the services are individual,

private communal, connected to municipal services or a combination of any of the above. Municipal taxes for the site may or may not be included in the rent. The park operator is responsible for the provision, ownership, operation and maintenance of all services; ie, water, sewage, roads, amenities etc.

The rent control guideline has some merit for modern land-lease communities. It does not for the older mobile home park. The majority of these older parks, due to the initial low rents they established, some mismanagement where capital was used to finance the park operation, failure to set aside replacement capital and tenure of rent control, are in dire economic situations. Rents of \$100 per month are common, and with an increase of 2% to 3%, this does not offer any economic incentive for the owners.

We would like to work with the government to resolve this issue. We and the Ontario Manufactured Housing Association suggest the guideline address this situation by allowing rent increases to be the greater of guideline times three or \$50 per month and that rent be decontrolled, as per the intent with apartments, when the unit or site is vacated. The effect of this effort will be to maintain healthy, viable communities in which the owners' equity in their units will increase with time.

The second point we'll comment on is required capital expenditures, principally infrastructure upgrades. The draft legislation has recognized the need for a cost pass-through allowance for capital expenditures when a public agency requires infrastructure upgrade; ie, water and sewer systems. There has been some discussion whether there should be an appropriate cap on this. We suggest that these requirements are outside the landlord's control but will be defined by appropriate engineering studies and subsequent municipal and MOEE approvals.

It is recommended that the actual costs involved, as attested to by the approval agency, be amortized and added to rent. Once paid, this cost would fall away from rent. Tenants should have the option of paying this expenditure as a lump sum and not be subject to rent increases.

There is also the potential of capital expenditures requested by the tenants. Similar to the principle of required upgrades for capital expenditures, we can envision a situation where the tenants may wish to instigate an upgrade relative to physical services; ie, paved roads and some new amenities. We would like to see provision in the legislation for the costs of such improvements, as recommended and approved by the majority of tenants and the landlord, to be a cost pass-through, to be amortized and charged again on rent and to fall away from rent when that is paid.

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The fourth point we would make is positive discrimination. Many of the modern land-lease communities are retirement-oriented and function exclusively in that regard. We would like to see the new legislation provide for positive discrimination in the form of zoning spec-

ifically for retirement communities. A recent decision in British Columbia and some recent events in the US have supported the principle of zoning related to age.

In making this presentation, we are summarizing just a few key points. Just to go over them briefly: A rent-control guidelines formula has some merit for the modern land-lease community, but provision must be made to address the existing chronic depressed rent situation of the older-type mobile home parks. Required capital expenditures, particularly in infrastructure upgrades, must be allowed to be a 100% pass-through of approved costs. And we would like to see the subject of positive discrimination addressed.

In our previous submission to the committee on August 22, 1996, we commented on various other points of the legislation; ie, balanced landlord-tenant protection, fair market rent, rent reduction application, new construction, maintenance, sublets, abandoned property, dispute resolution and For Sale signs. For the sake of brevity, these have not been repeated here, and we urge the committee and staff to revisit our previous submission.

In summary, we feel that manufactured housing developments on land-lease tenure offer an ongoing and increasing opportunity to provide affordable housing for the residents of Ontario. Being unique and distinct from apartment and condominium units, they can best be served by a distinctive land-lease community act. This would be a preferred alternative to being part of the legislation that principally relates to other unit types and tenures. However, we do intend to work with the government on the new Tenant Protection Act and we appreciate the efforts in that regard. But we are anxious to pursue at an appropriate future date a separate act specific to land-lease communities.

I thank you again for your time. I will attempt to answer any questions there are, and if I can't, I can get the answers from our association members and advise the committee at a later date.

The Chair: Thank you, Mr Barker, for your presentation. Members of the committee may have some questions.

Mr Monte Kwinter (Wilson Heights): How much time do we have?

The Chair: We've got about five or six minutes.

Mr Kwinter: Each?

The Chair: Oh, no; we have to share. We share in this committee. You've got a few minutes, Mr Kwinter.

Mr Kwinter: I just wanted to know.

I apologize for not being here at the very start of your presentation. You're right: You do have a unique situation. I think one of the confusions that probably compounds the issue is the reference to mobile homes, the feeling that people pull up with their home on the back of their car, park it for a bit and then take it off again. In fact, these are not mobile once they get there; they are really permanent houses on a park.

I agree with you: It's unique. It doesn't fall under the condominium provisions and it doesn't fall under a conventional rental situation. But how do you deal with the issue of different services provided in different parks so that you legislate it? If you had a minimal standard that every single park had to adhere to, I could see some legislation that would cover it. But in some parks it's minimal; you really are given a spot and minimal services. Others are very sophisticated, with entertainment centres or recreational centres, things of that kind. Have you had any thoughts on that?

Mr Barker: I think your legislation is trying to get at that a bit with these capital costs, upgrades and that sort of thing. Where you have the concern is with the minimal services. That's where the Ministry of Environment has a concern. I'm thinking specifically of sewer and water. If those parks can be upgraded — we're not asking for any government handouts to do this, any support, any finance, any grants or anything like that. It can be done by the park owners and operators if they have the proper legislative and planning tools to do it.

That is simply to allow those capital costs for the appropriate upgrades, which would have to be over-viewed by an engineer, or the appropriate engineering report over-viewed by the Ministry of Environment or some agency such as that, and allow the services to be upgraded to a good standard.

That would bring the parks up in standard, not all to the same level because some, as you say, are very sophisticated and the people who live in those parks pay in their rent for those amenities, the big clubhouses and so on. Not everybody needs that, but everybody needs basic sewer and water and everybody needs the park owner-operator to make a decent living and maintain his park, because if he maintains his park, the units in that park increase in value. They retain their value, they increase in value and the people retain the equity in their units. If the parks deteriorate in quality, the people lose their equity in their units; it's not just the park operator who suffers.

Mr Rosario Marchese (Fort York): Mr Barker, at the outset you talked about having an interest in fairness and equity, or fair and equitable treatment of landlords. You're speaking generally here, not just around the issue of mobile homes but as it relates to all landlords. What is fair and equitable, in your view, with respect to landlords and tenants?

Mr Barker: In general principles, the tenant should pay a fair rent for his facilities. In this case, in our situation, the tenant owns his unit and rents the site it is situated on in the park. The landlord should make sufficient from that to maintain the park and make his reasonable profit or living.

Mr Marchese: We have generally about three million tenants in Ontario, 3.2 million, and our worry in terms of the public interest is how to protect the majority of those tenants. We thought we did that with our bill, but obviously this government doesn't agree and you don't

agree. Tenants, by and large, came here saying that they had the best protection under our Rent Control Act and that if anything needed to be done, to try to make some changes to that rather than changing it in such a way that the focus shifts the interest to protecting landlords over the tenants, as I see it and as the tenants see it. You don't see it that way.

Mr Barker: I don't see it as protecting the landlord over the tenants. There are many things in the legislation that we accept and are very appreciative of. The For Sale sign question has been resolved and so on, and that's fine. I think we've still got to get to a balance of landlord and tenant protection, particularly in the older parks where there's a concern that the landlords be able to make a fair living.

Mr Steve Gilchrist (Scarborough East): Thank you, Mr Barker, for coming before us today. I appreciate the fact that you folks were also here last summer and made a presentation. I hope we've been able to respond to some of your concerns.

I would just like to seek clarification from you on one point, because while you commented that there is a need for special relief for chronically depressed rent, you then went on to talk about the fact that in many of those parks the issue is minimal services — sewers and roads and the like. I'm curious to know why the section in the bill that would allow you a no-cap flow-through of any costs ordered by the municipality or the province, which would certainly relate to sewer systems, wouldn't arrive at exactly the same end; namely, the landlord's ability to ensure that services are upgraded with the knowledge that those costs could then be passed along to the tenants.

Mr Barker: I may be out of date. I wasn't aware there was 100% pass-through. Is that what's currently in the legislation?

Mr Gilchrist: For anything ordered by a municipality or any level of government you have a no-cap pass-through. Of course, on any of the other capital improvements — you mentioned if tenants request any improvements — the 4% cap would apply to that. We think that's a step forward as well in terms of meeting that test of fair balance between the two.

Mr Barker: I apologize. I didn't realize the 100% pass-through was there.

The Chair: Mr Barker, thank you for coming this morning and making your presentation to the committee.

The next group that is to appear before us is the Tenants Association of 54 Roncesvalles. Are they present this morning? Is there a representative? Could you call in the hall, please? The hall is empty.

1020

TENANT ADVOCACY GROUP

The Chair: I understand the Tenant Advocacy Group is here and would be prepared to make its presentation now. If there is an opening later in the day, we will try to make it available to the Tenants Association of 54

Roncesvalles. Mr Hale and Ms Marshall of the Tenant Advocacy Group, good morning.

Mr Kenneth Hale: Good Morning. My name is Kenneth Hale, and with me is Kristin Marshall. We're lawyers who work for community legal clinics and we're here on behalf of the Tenant Advocacy Group, which is an organization of lawyers and legal workers who represent tenants in the Metropolitan Toronto area. We appreciate being invited to speak and we hope your invitation to us means you're willing to listen to some of the concerns tenants and tenant advocates have about the legislation as it's presently drafted.

We can't talk about every issue raised by the bill in 20 minutes, but we would like to endorse a number of presentations that we've seen and heard, specifically the Coalition to Save Tenants' Rights, the Federation of Metro Tenants' Associations and the Legal Clinics Housing Issues Committee brief, which is to come.

Like these other groups, we believe it's a mistake to give landlords an immediate financial incentive to get tenants to leave their homes. We believe it's a mistake to take away the powers of municipal governments to control demolition, conversion and renovation of tenant homes. We believe it's a mistake to hand over to the cabinet the power to overrule the conclusions of a human rights board of inquiry on the issue of discrimination in housing, especially when the board hasn't even issued its decision yet. We believe it's a mistake to provide care home operators with an open-ended cause for eviction of their vulnerable tenants, and we believe it's a mistake to end all rent protection for tenants of new buildings.

However, we know other groups have got into detailed criticisms of these major problems with the bill, and I'm sure you'll hear more about it as you travel around the province. We would strongly urge you to listen to what these people are telling you. These are real problems that they're highlighting.

We would like to focus on some of the issues that might be overlooked and share with you some of the legal expertise from our group. We have a detailed written brief which covers a lot more than we're able to summarize in 20 minutes and we hope that at some point you'll look at it when you're reviewing the suggestions for changes to the bill.

I'd like to talk to you about the way the bill treats tenants' privacy, tenants' personal property, problems with unnecessary parking charges and some issues about rent increases. Ms Marshall will speak to you about our concerns about the tribunal.

Our comments are based on our practical experience in using the existing system to address tenant concerns and to resolve disputes between landlords and tenants. Unfortunately, most of the expertise that's in the Ministry of Housing and in the minister's office has to do with rent regulation, and the determination of landlord and tenant disputes, which has always been in the Attorney General's department, seems to have got overlooked in a

lot of this. Those are some of the concerns we're bringing here.

First, I'd like to deal with privacy. Under the common law, tenants' right to privacy was absolute during the term of their tenancy. Any rights of entry a landlord or anybody else had were written into the lease and were strictly construed by the courts to protect the privacy of the tenants. Any other entry by the landlord or anybody else was a trespass and was considered to be an offence against the tenant's property and against public order. Of course, back in earlier times, the landlord had no obligations to the tenants which they would have to come on to the property to fulfil, but the law was clear that the landlord's financial interest in a property was secondary to the tenant's privacy.

The Landlord and Tenant Act, as it's presently drafted, recognizes there are emergencies which may require the landlord to enter without notice. It also recognizes that where the landlord has obligations to clean or to repair, there must be a right of entry, on notice, to fulfil those obligations. However, any other right of entry may only be on notice and must be spelled out in a tenancy agreement.

Bill 96 proposes to sweep this protection away and authorize invasions of the tenant's privacy whether or not the tenant agrees. In fact, the bill would prohibit tenants from making agreements to prevent such intrusions. The bill does not limit intrusions to entry by the landlord. It permits entry by prospective tenants without notice, and potential mortgagees, insurers and purchasers; that is, pretty well anyone the landlord wants to bring in. Even the existing restriction against entry after dark has been lifted.

We think the need for families to have a safe haven from the outside world is treated in this bill as if it were secondary to the whims of investors or potential investors. We think common decency and respect for people's families and families' privacy means this section should be voted down.

As well, section 23 permits the landlord to change the locks of the tenant's door at any time as long as they give the tenant a replacement key. If the tenant was to change the locks and give the landlord a key, they could face a fine of up to \$10,000. We think the tenants deserve a reciprocal right to protect themselves.

On the issue of tenants' personal property, we'd just like to remind the committee that for the vast majority of tenants being a tenant is not a choice of lifestyle. Tenants rent their homes because they can't afford to own their homes. Whether this is a temporary situation or a permanent situation differs among tenants, but for a lot of tenants the only things they actually own are their furniture, their clothes, their books, their papers, their keepsakes. Traditionally, the obligations of landlords to protect this property are very stringent. While we would admit that the rules about how property should be cared for when the tenant leaves the apartment haven't been all that

clear, until Bill 96 the rules have recognized that there's a vital importance this property be dealt with fairly.

When we had the discussion paper issued by the minister, he proposed to clarify the landlord's obligations, suggesting the landlord would apply to the tribunal, and upon being granted possession of the premises, the landlord would be entitled to throw out the tenant's property after 30 days. The bill follows this suggestion, adding the right to immediately dispose of any unsafe or unhygienic items.

I guess we don't really have any big quarrel with that, but unfortunately the bill doesn't stop there. The landlord doesn't have to follow the rules if property is left behind by tenants who move out because of a notice, because of an agreement or because of a tribunal order. Their property can immediately be kept, sold or thrown out by the landlord and the landlord isn't liable to anyone for doing so. If the tenant dies, their property can be kept, sold or thrown out on the 31st day after their death and the landlord doesn't need any authority from the tribunal. Where the property is a mobile home, the landlord has duties to try to reach the tenant and must wait for 60 days before seizing, selling or disposing of the mobile home.

In our view, these provisions legalize the theft of a tenant's personal property by unscrupulous landlords. They take away any civil or criminal remedies that the victims of such thefts have now. When you combine this with speedier evictions, less affordable housing and more and more problems with access to emergency shelter, they are cruel and unnecessary treatment of people who have lost their homes. We're not saying that honest business people will take advantage of this immunity, but crooked and corrupt people will find new sources of revenue by stealing the property of people they evict.

There should be no seizure, sale or disposal of the tenant's property, unless it's unsafe or unhygienic, without an order of the tribunal. Any net proceeds of a proper sale should be paid to the tribunal, where the tenant or the owner of the property that was seized can claim it within a year. These were the kind of principles that were adopted by the Legislature in the Residential Tenancies Act, 1979, and they provide a minimum recognition that the tenant has property rights in personal goods. We urge you to recommend that those kind of provisions be included in Bill 96.

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I'd like to speak very briefly about parking charges. Since landlords now have lots of new opportunities to increase their revenue, it seems only fair that a Tenant Protection Act should offer some relief to tenants who are suffering from unfair charges.

The most common of these and the one that's the easiest to remedy, is the mandatory parking charge. Tenants who don't have cars and who never will have cars are, in many cases, required to pay a charge for parking each month, \$30 or \$40. These charges seem to be most often applied to older women who are living alone on modest incomes. Often this charge started as a

condition of signing the initial lease or perhaps they or their husbands had a car when the apartment was rented many years ago, but landlords and the rent control office refused to remove these charges when the tenant requested them without the landlord's consent. We're asking that you add a section to the bill which would allow tenants to terminate their agreements to rent parking spaces on 60 days' notice.

Dealing with a couple of the rent issues, the way the law is presently written, the Rent Control Act recognizes that there may be circumstances where landlords and tenants would agree to a rent increase above what would otherwise be permitted because the landlord is doing some work on the property or providing a new service to the tenant. The law controls abuse of this by requiring landlords to get approval from a rent control officer before they actually charge the rent increase.

There haven't been that many of these applications and we're not aware of any abuse of these applications. However, for some unknown reason, Bill 96 proposes that the requirement of this approval by the tribunal be dispensed with and it be replaced with a five-day cooling-off period. We don't think this change is necessary or well advised. Because there is a major shift here in the balance of rights between landlords and tenants, our concern about tenants being pressured into signing agreements for increased rents without receiving anything of increased value is stronger than it ever was unless there's a review by the tribunal of these agreements. The committee should have some faith that the tribunal is going to be fair in its treatment of people instead of taking away this jurisdiction that they already have before they've even had a chance to set up their operation.

The final thing I'd like to talk about is orders prohibiting rent increases. One of the other changes that Bill 96 proposes, which doesn't seem to have a rational explanation, is the proposal that landlords should be allowed to continue to raise the rents of sitting tenants while the landlord ignores municipal work orders to comply with minimum maintenance standards. This works against all the changes that you're putting into the Building Code Act in section 212. Landlords whose buildings have outstanding orders against them do not deserve to increase the revenue at the expense of their tenants and to allow them to do so undermines the credibility of the whole system. As well, tenants whose rents are going up while their homes are falling apart are more likely to come to the tribunal with their complaints, adding to a workload that already looks quite frightening.

We've tried to get an explanation from the minister's office and from the ministry staff about why this change was made but we've never received an answer and we don't really think there is an answer. So we ask that the committee recommend that the bill be changed to continue the orders prohibiting rent increases as a consequence for the landlord failing to comply with a building code order.

I would like to turn it over to Ms Marshall to speak about the tribunal.

Ms Kristin Marshall: We have serious concerns about the proposal to shift the landlord and tenant matters from a court to a tribunal. Bill 96 provides little insight into how the tribunal will be set up. What insight it does provide points to an unbalanced system which favours landlords and takes away many of the protections formerly available to tenants. Since the members of the tribunal will have very important decision-making functions, it is essential that they be hired on merit and experience rather than on political connections. The appointments should be for fixed terms to guard against political interference once they're appointed.

As for procedure, there are a number of ways in which Bill 96 puts fewer procedural requirements on landlords at the expense of fairness to tenants.

First, landlord notices to terminate only have to set out reasons for termination. They do not have to give details or any particulars. Also, the warning to the tenant is inadequate. It should tell the tenant that he or she doesn't have to vacate pursuant to this notice. In our experience, notices to terminate have often been misunderstood by tenants and new legislation should ensure that these notices are as clear as possible.

Second, landlord applications to evict tenants without notice: Applications made without notice to the tenant are inherently unfair. When as fundamental a right as the right to one's housing is at stake, there should be more procedural safeguards in place to protect tenants. No application for eviction should be granted unless the tenant has had notice of the application. A landlord should only be able to rely on an agreement to terminate or evict a tenant if it is in writing. In this type of application, Bill 96 allows a landlord to produce merely an affidavit about the alleged agreement. This is open to abuse by unscrupulous landlords. In order to be fair, a copy of this notice or agreement should be filed with the tribunal so that it can then decide if the eviction request is proper.

Another huge imbalance that appears in several sections of the bill is the one-year limitation period imposed on tenant applications as compared with the existing six-year limitation which will still be available to landlords.

In addition to making procedures easier for landlords, the unfairness of Bill 96 is made worse by the additional burdens it imposes on tenants. First, the requirement that the tribunal consider whether tenants have advised their landlord of disrepair before they seek an order is another burden. Most tenants do inform their landlords of disrepair, often repeatedly, but requiring them to prove that they have done this not only goes against existing case law but it could unjustly deny them remedy.

Tenants can apply for reductions in rent where there has been a decrease in services. Under Bill 96 they must do so individually. The reg is not that effective unless the parties can be automatically added to applications which

will affect all tenants in a building. Making separate applications imposes more burden on tenants and will also clog up the tribunal system.

Tenants will now be required to file a written dispute to a landlord's application. They can no longer appear before an official to say that they dispute. Written disputes will create an obvious impediment for tenants with limited language skills. Furthermore, it's grossly unrealistic to believe that tenants will have the time to get advice and respond to a dispute in writing within the proposed five-day time period. We feel this should be at least 20 days.

There are two other areas of imbalance in Bill 96 which result in windfalls to landlords and even less protection for tenants. Landlords are permitted at any time to give a tenant a catch-up rent increase to the maximum rent level as specified by the rent registry. How can it be called fair where landlords can take advantage of the maximum rent concept under the rent control system while the protections that maximum rents and the rent registry system gave to tenants are being abolished?

The second windfall is section 131, which grants an amnesty to landlords who have been charging illegal rents. Tenants have only six months after the bill has been in force to make an application against illegal rent even if they've been paying too much rent for years.

Concerning the tribunal, its efficiency does not have to come at the expense of fairness. It is possible to ensure proper protection for tenants without imposing an undue burden on landlords or even the tribunal. First, one modest addition to the bill is quite simply that landlords be required to provide tenants with rent receipts. In our experience, such a provision could reduce the overall number of disputes and applications to the tribunal and would offer protection to both landlords and tenants.

Bill 96 requires landlords to pay interest on rent deposits. However, there is no mechanism for tenants to enforce this right. Rather than an amendment which could generate hundreds of tenant applications at the tribunal, tenants should be permitted to deduct the interest from their rent. Making this right of setoff explicit would provide a remedy for the right already given and it would not burden the system.

Concerning service of documents, the tribunal can't operate properly if parties don't know there's a proceeding going on. We suggest that the tribunal should serve notice of application on all parties.

The tribunal is allowed to make default orders against a person who doesn't show up. Even if the tribunal delivers the originating document, there is no guarantee that the person has had notice of the proceeding. It's wrong to assume that parties who don't respond do not deserve any legal protections.

Our first concern about default orders is that the tribunal is not required to assess whether there is any merit to an application or a money claim. A default order

should not just be made outright without the tribunal's scrutiny using its supervisory jurisdiction.

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Our second concern about default orders is that neither the tribunal nor the landlord has to notify the tenant, and this is kind of a basic procedural fairness that shouldn't be ignored. Tenants also need to be notified to apply to set them aside, and there should be provision to extend time in appropriate cases.

Briefly, there are three areas of tribunal powers which we think are vague and overly broad or ill defined. The power to mediate a settlement has to acknowledge the unequal bargaining power between the parties. The power to refuse to hear evidence in submissions, if money hasn't been put into it, has to be limited to reflect the current circumstance of the law today. The power to establish rules and guidelines is so vast that it has to have input from both sides to make sure it will run smoothly and operate fairly, and the cost-awarding authority has to be limited to merely frivolous and vexatious proceedings so it won't intimidate the general public from using the system.

The Chair: Thank you very much. I regret that we've run out of time. I'm sure you had a few more words to say and I know there are questions, but we've simply run out of time. Thank you, Ms Marshall and Mr Hill, for coming this morning.

Is the Tenants Association of 54 Roncesvalles here? They were to appear at 10:20.

ONTARIO NON-PROFIT HOUSING ASSOCIATION

The Chair: I believe the Ontario Non-Profit Housing Association is present, Mr Joseph Debono and Ms Kathleen Blinkhorn. Thank you very much for coming. Please commence your presentation.

Ms Kathleen Blinkhorn: My name is Kathleen Blinkhorn. I'm a policy analyst with the Ontario Non-Profit Housing Association. Mr Joseph Debono is here with me. He's a solicitor for the law firm of Fraser and Beatty, and he has assisted us in putting together our submission to you.

I first want to take a couple of minutes and explain who we are and who we represent. We're a non-profit-sector organization. We represent over 325 non-profit and municipal non-profit housing providers in Ontario. The majority of our members are one-off providers, that is, about 70% of our membership represents one building in one small community or even, in Metro Toronto, with less than 100 units. About 30% to 40% of our members are supportive housing providers. They're either dedicated, where they have a group home that provides specific services to people with special needs, or it's integrated within a regular apartment building within the non-profit or municipal non-profit portfolio.

We originally looked at this legislation — I shouldn't say the legislation that came out in November, but prior

to that, a year ago last spring, we took a very extensive consultation of our supportive housing members across the province. We visited and spoke with 148 supportive housing providers throughout Ontario to get their concerns with the present legislation, specifically the Residents' Rights Act and how it was affecting the operation of their building. At that point last June we submitted a paper to this committee, which is attached to the paper we submitted to you today. When we reviewed the legislation that came out in November, we felt that some of our concerns were addressed in the proposed legislation, but we still have additional concerns that we'd like to discuss with you today.

I just want to highlight that our supportive housing providers cross the gamut, and I think ONPHA is unique in that way. Our members house people with physical disabilities, people with developmental disabilities, victims of family violence, people with AIDS, people with mental health issues, street youth, homeless people; as I indicated earlier, all within either a dedicated or integrated building within the community.

In many of the recommendations we have brought forth, we tried very hard to balance the rights between the tenants and the owners we represent as a non-profit organization. But I guess we're also unique in the way that many of our members — I would say most of our members — are very strongly committed to the tenant populations they house. Therefore, in looking at this legislation, we wanted to ensure that the rights of the tenants were not jeopardized in any way with the recommendations we were bringing forward.

I'm not sure, but I hope you'll have an opportunity to look at our report. We've come forward with 53 recommendations. Many of them are detailed. With the assistance of Mr Debono, we took the present legislation, compared it to the proposed legislation and tried to really fine-tune some of the areas that we felt needed further clarity, both for tenants and for providers.

I'm not going to go through each one of those recommendations today, but what I'd like to do is highlight some of the areas I think you need to hear. I also had the opportunity over the weekend to read all the deputations that were done here in Toronto. Some of them were done by our members, so I don't want to repeat some of the things they already brought forward. I think you probably remember Jessie's Centre for Teen-agers, Woodgreen, the Supportive Housing Coalition; those are all members of our organization. Also the Metropolitan Toronto Housing Authority, Cityhome; those again are members of our organization.

We have great concern with the repeal of the Rent Control Act and the Rental Housing Protection Act. We know there's no new supply program on the horizon for social housing and there's a real concern with the waiting list our members presently have for people who need housing that is decent, safe, secure and affordable. Therefore, our concern comes from the fact that with the repeal of those two acts and the amalgamation of some of

the requirements of that legislation in the Tenant Protection Act, there will not be a supply of affordable housing through the private stock as there presently is. We also know — and FRPO has come out publicly and said this — that many of the people that our members, especially the supportive housing groups, house within their housing are not traditionally housed in the private sector.

So I'm not here to talk about the need for a new supply program, even though I would like to, but the fact that with the repeal of those two pieces of legislation and the fact that rents can go up higher, there is a problem with affordability in the future, and I think you've heard that from other people.

In addition to that, as the proposed legislation deals with what we consider social or not-for-profit housing, we have concerns with the conversion items, articles within that. The way it's presently drafted, our members are under an operating agreement with either the province or the federal government, so they cannot convert because of that agreement. With devolution to the municipal government on the horizon, we have a concern that there would be an opportunity to convert some of those non-profit housing projects to private or other kinds of ownership models.

While we don't feel that should be totally restricted, because we feel that there would be opportunities for our members and for the municipalities to look at that stock, we do feel that there should be some additional regulations put on the not-for-profit housing stock. Recommendation 53 in our report deals with wording we're proposing regarding that, that if in the future any of the non-profit stock, whether it be our members, whether it be the non-profit co-op stock or the Ontario Housing Corp stock, is up for conversion, there would be a higher body that would look at that, whether it be the Ontario Rental Housing Tribunal, the Ontario Municipal Board or some body within the community that would have to look at the overall picture of the community to see whether that would be the best for that specific community.

We also are proposing, given that, that certain sections in section 5.1 of the proposed legislation be amended to reflect that if in the future those kinds of things happen, the tenants living in those buildings would have the same rights as the tenants living in private ownership projects.

The other area I'd just like to highlight is care homes. As I indicated to you earlier, a very large percentage of our members are what you would consider care homes within this legislation, and we have had a special section of the report to deal with that. I don't know whether you've heard this in other parts in the province, but one area that didn't seem to be covered in the previous deputations was a concern around shared or congregate living situations. Many of our providers, those that have group homes, those that deal with housing the homeless, they live in a group setting. They share a common bathroom, a common living room. There

may be three people, four people, there may be eight or 10 people. There are real concerns with that group around shared living accommodations and some of the issues that they face.

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Just to highlight a few of them, visitors are a real concern, especially if you're looking at second-stage housing or victims of family violence in a shared situation, who is coming in and visiting. While under the present legislation, and also under the proposed legislation, the landlord would not have the right to restrict the visitors, what we're proposing in those cases, with agreement with the tenant that the landlord does not have the ultimate right to say who comes to visit that person, is that they can restrict certain visitors. It's also been a problem for people who are dealing with the homeless population. Maybe some of those people are going through some kind of treatment program. If they have visitors coming in who are maybe not going through that same program and needing to indulge in certain things that another member of the household may be trying to not indulge in, it makes it very difficult for them.

Another area is pets. I'm not going to spend a lot of time on pets because pets is an issue in rental accommodation. What we're proposing in shared accommodation and in supportive housing accommodation is that the landlord has the right to restrict certain pets in those areas because of the fact that they're sharing a unit with a number of other people. Under the legislation, your bedroom is your rental unit even though you share common areas — bathrooms, kitchen areas and so on.

Another area we want to look at, and it was very difficult for us to come forward with a position that we felt all of our members were satisfied with without jeopardizing the rights of tenants, is that we're proposing an interim removal process for tenants only in situations of violent behaviour. It's outlined in quite a bit of detail both in our submission that we submitted to this committee last June and also in the submission that we propose to you here today.

It has been brought forward by our members that in shared living accommodation or even in self-contained units where there's a very high concentration of people with special needs, violence is an area that often affects many of the people sharing the unit within the building itself and also the community at large. We are looking very much at what the Lightman report recommended a few years ago, which was a fast-track eviction process. We understand that under the proposed legislation you're looking at not legislating a fast-track system but through an administration process giving priority to that system.

We're actually proposing a process of interim removal. Why we feel we can do this with good heart and protecting both tenants and the landlords is that part of our proposal is that the landlord would have the responsibility under this to keep the unit vacant. We're asking that a violent person be removed fairly immediately, within a day or so, going through a quick process.

The landlord is then responsible for keeping the unit vacant during that period and if, after the tenant goes through a tribunal process and it's not weighed on the landlord's side, then the tenant has a right to go back to that unit and the landlord has to pay for any over-and-above costs associated with the relocation of that tenant during that period prior to them going to the tribunal. We feel that landlords will not take advantage of this system, this interim removal, unless it's a very special case of violence and they feel that the safety of not only staff but other tenants in the building is in jeopardy.

In closing — and I'm certainly available for questions too — we have real concern with the fact that, as previous speakers have indicated, there's not a lot of detail in the proposed legislation of exactly how the tribunal is going to work. We understand that this government felt a need to take this process out of the court system and put it into a separate system. However, we have concern on behalf of our members that the time it's going to take to go through that process may be as long, if not longer, than the present system. Our providers are committed to keeping people housed, but unfortunately they often have to use the court system in order to enforce that or to get people out of their building whom they just cannot deal with.

The time that's associated with how you go through that process, the cost from a staff standpoint, when dollars are being cut on a yearly basis for our providers for the administrative cost — they don't have the extra dollars to hire independent advocates to advocate on their behalf. We feel it's very important in this legislation that the regulations and the rules and principles under which the tribunal is established, the process from the time a person walks into the office until they walk out after a tribunal hearing takes place, are very clear and concise, they're in plain English and they're user-friendly.

I understand that some other deputants had concerns with it being taken out of the court system and put into another form of system. In fact, we feel that if done correctly it could be a friendlier way to deal with it, for both the tenants and the landlords. But we have real concern with the process, whether it will be overbureaucratized, and the time frame associated from the time a person walks in until they actually get a hearing date.

Other than that, as I said, our report deals with quite a few other recommendations. Those are the highlights: the concern with affordable housing stock, with the repeal of the Rent Control Act and the Rental Housing Protection Act; that you look at special considerations around shared living accommodations because that is unique and it is very much part of some of our supportive housing members' portfolio; that you look at an interim removal process for violent behaviour only and the effects that could have in removing someone immediately but still going through a process where they have all of the rights under the tribunal as if they went through the regular process; and finally, that in your decisions around the legislation you are very clear and concise to the people

drafting the regulations and that it's done in a very simple and friendly way for both the tenants and the landlords. I don't know whether Mr Debono has anything else to add.

Mr Joseph Debono: Given the time, I think perhaps we'll open it up to questions, assuming there is time.

The Chair: We're pretty stuck for time. I'm going to allow one question from the NDP caucus, and we'll catch up with the others another time. We're out of time.

Mr Marchese: I'll just ask one question around orders prohibiting rent increases, because you didn't touch on that. My sense is they're not likely to change very much. This is one area that many tenants feel we need to maintain, simply because when you have work orders in place and the landlord isn't doing that, the order prohibiting rent increases was a very useful tool for tenants. What is your suggestion or view with respect to that?

Mr Debono: Unfortunately, under the current statutory regime, under the Rent Control Act, the members of the Ontario Non-Profit Housing Association wouldn't be subject to those provisions. It's not really something we've canvassed with the membership, so I don't know that we're in a position to make any comment on that.

Ms Blinkhorn: As a not-for-profit organization, our members are exempt from certain portions of the legislation that presently exists.

Mr Marchese: We have no more time?

The Chair: One brief one, Mr Marchese.

Mr Marchese: The government speaks about balance and protecting tenants. This bill will improve maintenance, it builds a climate for investment and so on. What is your sense of this bill? Does it achieve the balance that they're talking about?

Ms Blinkhorn: If you want to look at it as to whether it's going to stimulate the growth of new rental, I don't believe it will. It cannot do it singly; it needs to have other things enacted: tax credits, looking at some of the service and impost charges associated with development, more incentives for developers to come forward. If we look at what happened in British Columbia with the removal of the Rent Control Act, it did not stimulate the development of new housing.

We looked at it very much from an equity standpoint on behalf of our members who are landlords, but also the tenants who live in the buildings. Our recommendations in the report tried to address that balance. That's why we have said very clearly, with the help of Mr Debono — he literally went through the present legislation and the proposed legislation and tried to bring forward recommendations that would make that equitable, a better balance on behalf of our members.

The Chair: Thank you, Ms Blinkhorn and Mr Debono, for coming this morning and making your presentation to us.

We had a 10:20 delegation, the Tenants Association of 54 Roncesvalles. Are they here? By chance, would the 11:20 delegation, the Metropolitan Toronto Apartment Builders Association, be present?

I do know that Mr François Rouleau is present.

FRANÇOIS ROULEAU

The Chair: Mr Rouleau, thank you for coming.

Dr François Rouleau: My name is Dr François Rouleau. I hold a PhD in astronomy from the University of Toronto and had some post-doctoral research experience in Europe.

Since returning to Canada a year ago, I have been working full-time as a volunteer to expose and to fight the destructive agenda pushed by the Harris government and its corporate backers. My only affiliations are with Riverdale Against the Cuts, a citizens' group also exposing and fighting the Harris agenda, and Citizens for Local Democracy, the citizens' group fighting the megacity and attempting to salvage some local democracy.

I am also a tenant living in St James Town, the most densely populated area in Canada. As a tenant, I will be directly affected by Bill 96, the bill with the Orwellian name of Tenant Protection Act.

In this deputation I wish to express my gravest concerns that democracy is dying in Toronto, in Ontario and throughout Canada. This attack on democracy by the corporate and financial élite is being mainly carried out by its most zealous lapdog: the Harris government.

Before addressing Bill 96 specifically, I want to show that the Harris government shares many features with religious cults and Fascistic regimes. I want to expose the rhetorical devices, the propaganda, the lies and the sheer mega-chutzpah used by this government, particularly the Minister of Municipal Affairs and Housing, Al Leach, to mislead and manipulate key segments of society to push a corporate agenda that will make Canada look increasingly like a Third World country. This agenda has been allowed to be pushed ahead thanks to the complicity of the corporate-owned media.

The Harris government has been accused of being dictatorial by its own backbenchers in the context of its show of utter contempt for democracy, due process and meaningful public consultation. These were exemplified in the way it handled the proposal and passage of Bill 103, the megacity bill. The Speaker of the House found Al Leach and the Harris government in contempt of the Legislature for putting out a propaganda pamphlet making mincemeat of due process. The will of 76% of the population who said they did not want the megacity in one of the clearest possible ways of expressing itself — referendums — was ignored.

In the recent legal challenge to Bill 103 in the lower court, Judge Stephen Borins also lashed out at the imperiousness of the Harris government's handling of the public consultation regarding Bill 103. His decision that the process was nevertheless legal unfortunately clearly shows the élite view of democracy as being little more than what common mortals would call elected dictatorship.

The proposed changes to the standing orders recently introduced by the Harris government, fortunately delayed, at least temporarily, are another example. With these, the Harris government could ram through legislation without the public even knowing about it by sitting during evenings and even nights and limiting questioning by the opposition and the public.

When Slobodan Milosevic in Serbia rammed through legislation at 7 in the morning without even the presence of the opposition, there were howls of protest in the media on this side of the Atlantic. Now that the Harris government is taking the same path right here in Ontario, the media are cheerleading the government's actions, spinning them to make them look so reasonable, but the same dictatorial process is at work right here, right now, with the complicity of the media.

Another example is in Alberta, where Premier Ralph Klein wants to eliminate the fall session of the Legislature altogether, sitting only 34 days a year; all that because, in his own version of the end of history, the government has become so small and efficient that it doesn't need to waste all that time any more. That's what happens when you downsize government: You also downsize democracy in the process, because it's too costly, slow and expensive. A dictatorship at least makes the trains run on time.

The Harris government is also impervious to either logic or evidence. This is typical of cults; they have fancy ideological constructions that are based on ludicrous premises. You cannot argue logically with cult members because they are so wrapped up in their own ideology that they cannot accept any evidence that is contrary to their core beliefs. Here we have what could be called economic fundamentalism: the belief in the perfection of the free market, that anything can be reduced to market forces — no place for equity or compassion here.

This overarching binding myth is analogous to that of the Aryan race under Nazi Germany or the symbolic grandeur of ancient Rome in Mussolini's Italy. In this neo-Fascist framework, the intrusive role of the state is replaced by the global economy. Nothing and no one can escape it. There is no alternative. You have to accept it or fall behind, as if a government destroying any signs of equity, humanity or compassion in its path — like in Ontario — were progress.

Over and over again studies have contradicted the claim that income tax cuts stimulate consumption. I note in passing that a consumption tax cut has never even been discussed. It only makes well-off people richer but doesn't do anything for those at the bottom of the economic ladder. But Al Leach and the Harris government don't give a hoot about those people.

Studies have never recommended a megacity, yet that's exactly what this government is ramming through, against the will of the people. The argument about saving money through amalgamation has been repeatedly shown to be without foundation. Anne Golden and, most recently, Peter Tomlinson, the senior city of Toronto

number cruncher, make that point abundantly clear in their respective studies. Property taxes are expected to go up even more due to downloading and a thinly disguised market value assessment property tax. I for one will pay dearly for these, as 40% of rent is due to property taxes and Bill 96 allows increases beyond the guidelines when property taxes go up.

Not only is the government's propaganda on Bill 96 pervading mainstream newspapers, but it has managed to find its way into community newspapers, namely, this summer's issue of the *Toronto Voice*. In a letter to the editor, Al Leach, no less, spews out his usual fantasy-world rosy picture about "listening to the people," making a "faster, fairer, less costly system of rent control" and stimulating building of new rental units by the private sector.

Al Leach introduced the idea of removing rent control when a tenant moves out knowing full well that this would amount to a de facto total removal of rent control within a few years because 20% of tenants change apartments each year, according to Michael Walker. Students would be hit even faster by this measure since they move more often.

Under questioning last fall, Greg Lampert, author of a report on encouraging investment in new rental housing, criticized the government for moving on rent control reform alone rather than looking at a comprehensive, affordable housing strategy. He expressed scepticism at the prospect of building new private apartment stock at the lower end of the market using the government's proposal. Leach asserts that there is no evidence to support any claim that rents would skyrocket under this new system, yet that is precisely the conclusion reached in a report by John Todd on the impact of rent decontrol. He predicted that scrapping rent control would result in rent increases for lower-priced units and little or no increase for high-priced ones. In Harrisville, the poor always pay, while the rich reap the benefits. The report also pointed out that rent decontrol in Vancouver in the 1980s led to skyrocketing rents but did not result in the predicted increase in construction of new rental accommodation.

The claim that partial removal of rent control would lead to more private construction of rental units is ludicrous in view of the recent statistics. In the early 1990s, when interest rates were extremely high, many more rental units — 278 in 1992 — were built than last year, with only 37, when interest rates were the lowest in decades. If low interest rates do not stimulate the building of new rental units by the private sector, how could Leach's Orwellian rent control ever pull it off? Also, the claim by Leach that "about 50% of the rental units in Ontario are rented below what the landlord could legally charge," meaning that many rents are determined by what the market can bear, speaks volumes about the fact that he doesn't care whether low-income people can afford an apartment or not, as if housing is a luxury good that people can do without.

By focusing on broad statistics rather than focusing on the most vulnerable segment of society, Leach misled people into believing that everything will be all right: "Trust me." He gushes about the current increasing vacancy rate in Toronto, forgetting about the current explosion in homeless people, as if there were no connection between the drastic welfare cuts introduced by the Harris government and homelessness in Toronto.

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Under the provisions of Bill 96, particularly section 200, amending the Ontario Human Rights Code to include income information, many people will be discriminated against, according to human rights chief commissioner Keith Norton. Using income information in housing usually means that if a prospective tenant would pay more than 30% of his or her income on a rental unit, the landlord would have the right to refuse that prospective tenant. If Bill 96 had been law when I came back from Europe with no income, though significant savings, I could have been refused housing anywhere. I am writing a book at the moment, not earning anything and still living off my savings. Does that mean that housing should be beyond my reach if I were to move?

People know what they can afford in terms of rent, and such arbitrary and discriminatory criteria should not be used in any civilized, democratic country. I thus join my voice with those of Keith Norton and countless others in demanding that income information be deleted from sections 36 and 200 of Bill 96.

I also demand that full rent control be reinstated in the bill. I am particularly alarmed by the section on condominium conversion, section 52, particularly subsections (4) and (5). I may have a right of first refusal to buy my apartment, suddenly converted into a condo without the proper warning — 72 hours' notice can hardly be called reasonable — but I but I would prefer to simply have a right of refusal to have my apartment converted into a condo without my consent in the first place. Again, the right of the landlord is given precedence over that of so-called protected tenants. Anyway, how could this measure possibly lead to the construction of more rental units? It looks like just one more freebie thrown at developers.

The housing tribunal is also a cause for concern. Section 148(1) says the tribunal consists of cabinet appointees. Well, guess who are likely be the government's appointees? Judging by appointees on the Health Services Restructuring Commission, the transition team and the financial advisory board, these are unlikely to be particularly tenant-friendly.

Furthermore, as in Bill 104, section 183 states: "Except where this act provides otherwise, an order of the tribunal is final, binding and not subject to review." That's in section 183. The only recourse for appeal is through the Divisional Court, but only on a question of law, which is stated in section 184(1). More dictatorial powers exercised by Tory appointees: These features of

the bills, as in so many other bills, including Bill 136, do not bode well for democracy, fairness and due process in Ontario and just underscore my point that we are drifting toward an authoritarian corporocracy.

The Chair: Mr Rouleau, we've got about a minute to two minutes left. I am going to allow the government caucus to respond or to ask questions.

Mr Gilchrist: Mr Rouleau, I am quite flabbergasted at your presentation. I think it ranks right up there with some of the most hateful stuff we've heard in this building. I must say it's intriguing that someone could sit here, able to make a presentation, and at the same time start with the premise that they don't believe there's democracy in Ontario. Such a pathetic attack, at the same time contradicted by your mere presence here. To suggest that this government is in any way, in its practices, analogous to Hitler's Germany I think is absolutely below any reasonable standard of commentary in this building. It is contemptible, sir.

The Chair: Mr Rouleau, we've still got a minute.

Dr Rouleau: I think he has just sunk himself. It proves my point.

The Chair: Thank you very much, sir, for coming, particularly for speaking ahead of the other groups.

METROPOLITAN TORONTO APARTMENT BUILDERS ASSOCIATION

The Chair: Is the Metropolitan Toronto Apartment Builders Association present? Mr Richard Lyall, thank you for coming.

Mr Richard Lyall: Good morning, and thanks for the opportunity to appear before you on behalf of the MTABA. I am Richard Lyall, the general manager of the association.

The companies I represent are the leading builders of all forms of multi-family housing in Ontario, including condos, non-profits — although not many of those are built now, of course — and co-ops. The association is involved in all issues related to the actual process of building. We have made many presentations on housing policies, including rental, and have been a founding participant in the Rental Housing Supply Alliance, other members of which have already made presentations to you, including the Ontario Home Builders, the Urban Development Institute and the Fair Rental Policy Organization.

As you will recall, the alliance was formed in response to the present government's inquiry on how to get the private sector back into supplying rental housing.

Rather than repeat points raised by other associations, I would like to touch on a few thoughts concerning new rental housing in a big-picture context. We believe that Bill 96 or, as I shall refer to it in this presentation, the Tenant Protection Act or the TPA, must be considered within the bigger picture and not in isolation. In doing so, I will not address the serious challenge with respect to

the massive amount of renovation work needed on existing buildings.

Our association was originally established during the boom of purpose-built rental housing in the late 1960s and early 1970s, when thousands of units were built every year. For example, in the peak year of 1972, 39,000 units were built when the vacancy rate was higher than it currently stands. Many of the buildings were not considered aesthetically appealing, but they were, and remain to this day, fully occupied, and most of the tenants are happy to have them. Unfortunately, new units have not been built to add to that stock for some time.

There is a reason why the industry used to build thousands of units and now builds nothing. There is a reason why Toronto is the only major metropolitan area in North America that lacks new rental construction. It has nothing to do with the industry's ability to build and everything to do with government policies at all levels. After all, our industry is recognized as a leader in North America, with many Toronto builders and suppliers active in the US, a fact, sadly and not without precedents, which has not been recognized at home.

The reason is that progressive layers of government intervention, for one reason or another and without due consideration given to their collective impact, have completely killed investment in a once healthy industry. How? For one, by making it virtually impossible to forecast a stable return, much less a return at all; second, by effectively causing production costs to increase to a point beyond the reach of the market. The process can be described as insidious, possibly not by design, but certainly in effect.

Where does TPA fit into this equation? The TPA is one part of a solution to a problem which the Toronto Star succinctly described in an editorial as "A Housing Crisis by Policy Design," and I have attached a copy of that for your interest. While we disagree with the Star's conclusion that the answer is to go back to social housing, it does provide a historical perspective which is frequently lacking in reports on this issue.

The social housing solution has not worked in the past. Why do we say this? If there is one lesson that the world has learned in the last 10 years, or maybe beyond that, it is that government's direct intervention in industry generally typically results in failure. Direct government intervention in markets typically has unforeseen consequences such as is the case in housing.

For example, in killing rental housing, government created a major social housing problem out of a minor one. I would argue it helped fuel the condo boom in the 1990s which ended in a crash. Why? Because no rentals were built other than condos on spec, which were rented at high rates.

It progressively became an accepted truth that the industry was not interested or the market simply did not work. Over the years people forgot to ask why the industry was not interested. A recent letter to the editor

which I wrote deals with this particular issue and is attached for your interest.

By the way, we are not suggesting government has no role to play. The government has a clear role in setting housing standards and rules for building and dealing with very specific housing needs for the physically or mentally challenged, but not in direct involvement in production or supply and the pricing of products. That is why our association has never recommended the outright elimination of a rent regulatory system. Tenants have rights and a right to some protection.

The question is, to what extent and at what cost? Can you imagine what would happen to automobile supply if the government intervened in that industry to the same degree it has done in housing? Can you imagine what would happen if government dictated what price cars could be sold for or became involved in design and production? Housing is just as complicated an industry, if not more so. It would result in unmitigated disaster.

The government's ability to respond to new demand is inadequate at best. A useful example is to consider the amount of work which has been put into the Regent Park renovation initiative, to create what? One hundred new units. It's a drop in the bucket. Toronto could absorb 10,000 new units a year in the core, where they are needed — a fact which has been recognized by Metropolitan Toronto. I've attached another article for your interest on that. Another example is the Ataratiri lands, a government brainchild turned into a nightmare. The taxpayer picked up the tab because the government took a risk of a kind which should only be taken by industry.

In terms of the big picture, the Tenant Protection Act is one step in dealing with one of the last bastions of government's direct involvement in industry. Incidentally, the industry is not alone in this view; every major newspaper in the province has recognized that changes to the rent regulatory system are required.

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However, the problem is difficult to fix because the rental regulatory regime is entrenched in the bureaucracy and the issue has electoral significance. We know that a bureaucracy, once created, is twice as hard to dismantle. The policy analysts who track why housing policies work or don't are the same people who design social housing programs. The one thing they unfortunately share in common, almost without exception, is a lack of industry experience.

In any event, the TPA does not dismantle the system but streamlines it somewhat, which should allow for badly needed renovation investment and general improvements while providing significant tenant protection.

No, the TPA by itself will not itself result in new construction of purpose-built rental housing. No one ever said it would. However, it is a necessary step in its resurrection. The other steps needed are fair property tax changes, equitable GST treatment, the removal of excessive or discriminatory development charges and

other regulatory measures which do nothing other than slow the ability of the industry to build. To oppose the TPA on the grounds that it alone will not result in new rental housing is just simply playing politics and ignoring the bigger issue concerning the economics of housing supply and renovation.

If we have one complaint, it is this: The rental housing solution writ large is not being brought in quickly enough. The issue is still being used as a political football, which is ironic given that all levels of government and all parties decry the lack of affordable rental housing supply. For example, the Liberal leader recently — and I've attached a copy of the press release — released a misinformed press statement saying that Bill 96 will wipe out rent controls. It's a gross exaggeration in the aid of a political cause. Was an alternative offered? No. Because they may not have one or, worse, possibly do not consider the matter a priority. We are looking forward to discussing the matter with them.

Reality suggests that in two years we will have had an extended period where no social housing or rental housing will have been built. Meanwhile, we know immigration continues with a huge proportion moving to Metro Toronto — 75% of immigrants to Canada — whether the government likes it or not. We know 80% of new immigrants live in rental housing. So where are they going? The answer is that the majority are in substandard housing or overcrowded housing conditions which will have shocking social consequences in the future, if they don't already.

The crazy thing about the rental housing supply issue is that our analysis and those by others suggests that, with change, government will be a net beneficiary in taxes to the tune of \$464 million for every 10,000 units built. This does not include the benefit of creating jobs and housing Ontarians or less obvious matters concerning, for example, the impact on traffic congestion and public transit utilization — one of my favourite pet subjects. By the way, the analysis has not been challenged. Frankly, no one group has come up with a solution that does not involve billions in taxpayer dollars, which is an unacceptable alternative considering the tradeoffs relative to other matters like health care and education.

It is a regrettable fact that the first-time renter does not have anyone representing their interests. In the US, investors have built over one million new rental units in the past five years; in fact, it has been a boom. Rentals are being built in the rest of Canada, including Vancouver.

Rental housing is one of the fastest-growing housing markets in the US. Why? They are, for example, building the housing in response to the demand generated by individuals working in knowledge-intensive industries, or people who simply want the many amenities which can be provided which may not be readily available in a subdivision or in a resale house, or people who simply choose to rent rather than own. We all know here that investment in housing isn't what it used to be because of

the low inflationary rates. Some people are choosing to rent and invest their money elsewhere rather than in a house.

The funny thing is that governments talk about creating the jobs of the future. Where's the multirental housing of the future? Where's the choice? For those would be renters in the Toronto area who can't find an apartment but who are lucky enough to come up with the 5% down payment, the government gives them the privilege of amortizing over \$20,000 in taxes for 25 years and a home in the suburbs which could be on the other side of town from where they work.

At the same time, we have a system which encourages many of the tenants who don't need government protection to stay in units which otherwise would be the part of the affordable housing supply — in doing so, denying those who need housing. Of course, the insult added to this injury is that nothing new is being built.

The Tenant Protection Act has been the subject of industry criticism but, with some changes, it is something that the industry can live with. What really needs to be done is for all parties to work together to solve the bigger problem of housing because the consequences are too serious to be left to chance.

If an industry is taxed to a point it can't function, then the tax structure has to be changed. The problem here is all levels of government have their hand in the tax jar and no one is prepared to make the first move. If the supply of rental housing and affordable housing is the big issue everyone rightly recognizes it to be, then why not make it an attractive investment and let us do our job? It would be like cutting the Gordian knot.

The TPA, with its warts, remains part of the solution and not the problem. That is why it must be considered within the context of the big picture. The real problem is that the total package of changes required from government is taking too long, and in the meantime the people of Ontario are being denied housing and, of equal importance, being denied housing choices.

The opposition should encourage the government to require that rental housing be treated no differently than owner-occupied housing without increasing the tax burden on owner-occupants. The Fair Municipal Tax Act passes the decision on the proverbial buck to individual municipalities which, with all the other changes happening, are not likely going to make unilateral decisions.

The industry has been on record on this issue for some time. Presumably we can learn lessons from the past and fix this problem once and for all rather than perpetuating a disaster. Thank you for your considered attention.

Mr Kwinter: Mr Lyall, I found your presentation very interesting, and I agree with a lot of what you say, but I think there are some basic concepts that you really have to address. One of them is your analogy, "Can you imagine what would happen if government dictated the price cars could be sold for or became involved in design and production?" To me, that is of no consequence. You can either have a car or not have a car. There's public

transit. You can walk. There are lots of ways that you can get from point A to point B without having a car.

When it comes to shelter, you either have it or you're homeless, sleeping in the park. If you can't afford that shelter, you have a problem. I think we as a society have a responsibility to make sure that all our citizens have some minimal standard of housing. I think that's something that has to be addressed, and you can't just fall back on the free market: "Let the market dictate, and if you could only get rid of all of these impediments like taxes and service charges and everything else, we could do just fine."

The other basic problem that I have, and I have made this argument so many times with friends of mine who are in the development business — and I can tell you I have a lot of them — is that it seems to me that the basic structure of rent control is that you as a property owner build a product for a market that you are trying to reach and you set the price. You build in your profit, you build in everything you want and say: "This is the building. Here is what I need to get an adequate return on my investment."

If something happens that I could not predict, for example, taxes go up, costs of basic services like water and energy go up, then I should be able to pass that through, and yet in your statement you're saying one of the biggest problems you have is that it's virtually impossible to forecast a stable return, much less a return at all. Why is that so? If you could address those two issues, I'd appreciate it.

Mr Lyall: Just on the point about the cars first, some people have to have cars in our city now. We haven't been building public transportation to the extent we should have been building it, and some working people have no choice other than to own an automobile. If they don't have one, they can't get to work. It's not simply a choice of whether you want to own a car, that you can walk.

Mr Kwinter: You can always lease one or take a cab.

Mr Lyall: You're right that the industry does set the price. Any industry sets the price for the product it produces, but there are factors which of course determine what that price will be, and some of those factors are tax factors. Yes, theoretically you can pass that on to the consumer. However, if the price that ultimately is set, based on those things being passed through, exceeds what the consumer can pay, then you've got a problem. Therefore, why would you invest in an industry where you're going to produce something the price of which is going to be beyond what the market can bear? Then you'll build a building that will just have a bunch of empty units on it and you'll lose your shirt or have some pretty annoyed investors. So while the industry does control what the price is and can pass things through, if you can't hit the market price points, then you can't build.

Mr Kwinter: I just want to point out that is the problem we have. That's why they're not being built.

Mr Lyall: Exactly. I'm agreeing with you.

Mr Kwinter: I'm saying that's the problem, but what I'm saying to you is that what is happening is that unless you alter a lot of other things in the chain, that's not going to change.

Mr Lyall: Exactly. The other solution is to give everybody huge wage increases, which isn't likely going to happen.

1130

Mr Marchese: Mr Lyall, I have lots of questions of you. Of course, there isn't going to be too much time for that.

I hear your distaste for government regulation, but I have to tell you that all aspects of life are governed by various types of regulations. For me, it's something that I think we as people in this society need. You're saying regulation in this matter as it relates to landlords is a bit of a problem; as it relates to those who build it is a problem. You say you don't like government regulation or its interference, but you do want government to interfere with reducing development charges. You want the government to intervene in that regard. If they do intervene in that regard, you think that's okay, but you don't like government intervention in general.

Mr Lyall: No, I didn't say that. What I'm saying is that government intervention to the extent we have it now has killed an industry. I'm not a Libertarian.

Mr Marchese: I was trying to keep track of what you were saying about government intervention and how that has affected your industry. I didn't get a chance to write your words accurately, but you want us as a government to equalize property taxes, because that's a big problem.

Mr Lyall: Huge.

Mr Marchese: Sure. That has political consequences in terms of where money comes from. If you put money here, you've got to take it from somewhere else, so politicians will have to bear the problem of that action. It's none of your concern how they deal with that, but you want them to get involved in dealing with that.

You want the government to have the GST, because that's what Mr Lampert says — I think most of you guys agree with this stuff — streamlining regulations on building, have the CMHC mortgage insurance fee and lower the administration due to reform of rent regulations, which is this bill. That's a small part of the big picture, because you said we need to see this in the larger picture.

Mr Lyall: In terms of the economics of it, yes.

Mr Marchese: That's a small part; it's 200 bucks out of that \$3,000 gap. In my view, this is not the big part of the problem. You've got other big problems to deal with, and you're not building —

The Chair: Mr Marchese, can you get to your question, please.

Mr Marchese: Gee, three minutes certainly goes fast.

The Chair: It's fast, three minutes.

Mr Marchese: You're not building because you're not making enough money, but you want the government

to intervene, is the question. This has a lot of consequences. This bill, in my view, is going to hurt a lot of tenants and it's not going to make you guys build, is the point I make.

Mr Lyall: The point I'd make there is that you're right in terms of the economics of it, but if you don't change the regulatory system we have now, in terms of the rental regulatory system, with something like the TPA, you won't have any investment. You can make all those other changes, but no investor is going to stick their neck into a market where at any given point in time the government can turn around and say, "Oh, sorry, this is where your price point will be in the future." The banks won't finance that.

Mr Marchese: This is not going to change it at all for you; it's not going to help you out at all.

Mrs Julia Munro (Durham-York): I wanted to come back to something we've heard several times in the submissions that have been made. You suggest in the second paragraph of your opening that the group of companies that you represent includes condos, non-profits and co-ops. This Tenant Protection Act only deals with regulatory burden and clearly there has to be an economic part that goes along with it to provide incentive. One of the recurring themes that we hear is the concern over the industry having incentive for low-cost housing, that there might be an incentive created that would do upper-end, but clearly — and you identify immigration, for instance, as an issue for first-time renters and things like that. I just wondered if you could comment on those kinds of criticisms.

Mr Lyall: Sure. The economics of this notion of affordable housing are such that with all the package of changes, if they were brought in we could certainly hit the upper range, the luxury range, and the midrange market or the average market. In terms of what we know as being base affordable housing, no, we're not going to build those under these circumstances. However, the economics of housing markets dictate that what happens is that when you build new units, you'll attract renters from existing units into the new units because they'll want the newer toys and everything else, and then those existing units will be freed up. You see, if you've got a problem with how many units there are relative to the demand for units, if you increase supply you ease the pressure on that, obviously, and then what happens is that those existing buildings will have to compete more.

One of the things right now is some of the existing buildings don't necessarily have to compete; there's no competitive market out there. If you own an apartment building and a vacancy comes up, it's occupied immediately, but it's occupied at a price dictated by the government.

Mr Frank Klees (York-Mackenzie): Mr Lyall, thank you for a very enlightened presentation. You mention that the rental housing market in the US is booming, and you also make reference to the fact that there's a very healthy rental market in Vancouver. Can you tell us some

specifics that are present in that US market or in the Vancouver market that are not present here in Ontario?

Mr Lyall: They don't have the same rent regulatory regime we have here. It's well known that Ontario has, certainly outside of Manhattan, and even Manhattan's made some changes recently, the most onerous and prescriptive rent control system in North America; and it's a province-wide system, it's not just Toronto. That's one major difference that we have with Vancouver and certainly a major difference with the US.

Rent controls were brought in in Ontario at the same time as they were brought in in many parts of the US, back in the 1970s, in response to the wage-and-price controls, inflation, a whole bunch of factors that were happening back then. But the massive trend in the US has been to get right back out, and to a point where there really are very limited pockets in the US where there are effective rent controls, certainly to the extent that we think they are — not as a result of that, but I'm sure it has something to do with it, and also in response to the demand for rental housing which has come up in the last five years. For example, the US economy came out of the recession a couple of years earlier than we did, so it's in response to that too. But they've been building a massive amount of this form of housing, and we haven't been doing that. Our economy is not that different from the US economy.

Mr Klees: The kind of rental housing that's being built, would you classify that as affordable? That's really at issue here: Can we get people into affordable rental units? You're saying that it's the regulatory environment that's largely responsible. What we want to do is make sure there's affordable rental housing available.

Mr Lyall: You could argue that we're dealing with two separate issues. One is to get the median range and the luxury apartment industry going again. In terms of the affordable, I guess the affordable rental housing they're building in the US is also funded by low-income housing tax credits, which is a completely different system than the one we've had up here for building social housing. It has proven to be effective. There have been many problems with it too, but that is one of the avenues through which the industry directly is involved in building affordable housing down there.

The Chair: We've run out of time. Mr Lyall, thank you for coming.

Last call for the Tenants Association of 54 Roncesvalles. Are they here? Ladies and gentlemen, that concludes the presenters for this morning. I will adjourn the committee hearings until 1:30 this afternoon.

The committee recessed from 1139 to 1331

KYLE RAE

The Chair: The first delegation this afternoon is Kyle Rae, councillor, city of Toronto. Good afternoon, Mr Rae.

Mr Kyle Rae: Thank you for my second opportunity to speak to you. The last time was August 1996. I'm disappointed that the legislation you've tabled certainly hasn't taken into account what I said last time. My sense is that with this piece of legislation this government can say, "We did consult," but then we can say, "You didn't listen." I think you have probably been hearing for the last couple of weeks that people are very concerned that the points they made to you last summer are not coming through in the legislation you have tabled.

The area I represent is ward 6 in downtown Toronto. Some 70% of the housing in ward 6 is rental housing; 50% of the housing is in the form of apartment buildings, many of them high-rise. In 1996, we estimated there were 20,333 tenanted units in my ward. That's a city the size of Orangeville. That is what I represent, so I have a very great interest in representing my constituents. They have, over the years, worked very hard to try and improve rental housing, rental housing protection, the Rental Housing Protection Act and the Landlord and Tenant Act.

This legislation falls very short of pushing us further ahead in protecting tenants. You call it the Tenant Protection Act, but does this legislation do this? Does it in fact protect tenants?

Does it stabilize rents? No. We know from your own legislation that capital improvements and operating costs such as taxes and utilities can be passed through. You have removed the costs no longer borne in the clause so that we and tenants will no longer be relieved of the improvements that have been made in the past.

Does it ensure that buildings are kept in good repair? No. You have decided that we no longer need the order for prohibiting rent increases, which has been a useful hammer in getting landlords to keep their properties in repair.

Does it stop landlords from forcing tenants out of apartments so that landlords can jack up the rents? No. You haven't put anything in place. You have suggested you'll be looking at harassment, but you have to do that because you've dismantled the Landlord and Tenant Act. You didn't need to do that, but because you've gone in this direction, you are having to create another bureaucracy to deal with the shortcomings of your own piece of legislation.

Does it provide a more effective process to deal with property standards violations? No, because you're removing these and you're suggesting that we will take these issues to the provincial court. I'm not sure the last time any of the members of this committee tried to deal with the provincial court, but it can take between one and two years to get matters heard in provincial court. I don't think that's an expeditious or timely manner to deal with landlord and tenant issues, especially concerning the health and safety issues that arise out of tenancies.

In February 1996, I held a meeting at Jarvis Collegiate Institute for the community to talk to the minister, Mr Leach. The minister is the MPP for the area. The minister

was told quite categorically by the tenants in that neighbourhood that he was to leave the existing rent control legislation intact, and if he were to do anything at all, he should tighten up the requirement that increases that occur above the guideline should be ensured to be spent on capital improvements on the buildings. That is the piece he was told needed to be fixed. It was categorical across the board from the tenants who attended that meeting. That has not appeared on the table, and it's quite regrettable that the province has decided to go in this direction.

In addition, I've already mentioned the order for prohibiting rent increases. The city has found that has been very effective in dealing with the condition of the housing stock. Between 1992 and 1996, 72% of these orders received compliance within 30 days. We know it has a proven track record. It's effective in dealing with the shortcomings of the housing stock. Why you would remove that from the array of legislation that allows us to keep housing in good order surprises me. I would have thought this government would be interested in ensuring that people had safety in their residential buildings, that they were able to be assured that they were going to get elevator service when they needed it for emergencies, that they would get hot water and cold water running in their apartment buildings, but you have made this far more difficult for us to try and control the shortcomings of some landlords.

It's interesting that I've been called back to speak on this issue now. Just last week the United Way of Greater Toronto released Metro Toronto: A Community at Risk and it got a great deal of play in the media last week. But I think, in looking over the comments that it makes about housing, the shortcomings of this new piece of legislation will only make the situation worse for people who live in large urban centres in this province. I quote from page 43 of the report:

"Proposed changes to provincial rent control legislation have increased uncertainty and increased the potential for higher rents, more evictions and increased homelessness in Toronto."

They go on to say, "Given the 21.6% reduction to shelter allowances for GWA recipients, a single person on GWA would be unlikely to be able to afford their apartment."

Given the kind of slippage and slide that we are undergoing in Toronto, why would we want to move in the direction of making it more difficult to ensure that people have safety in their homes? Why would we make it more difficult for people to be assured that there's going to be stability in the rents that they pay? It seems to me that this provincial government is only looking at one sector of society and that would seem to be the people who own rental accommodation, rather than the people who are renting it.

I know for many years members of the Conservative Party felt that the Rent Control Act was weighted in favour of the tenant. It's quite clear in this piece of

legislation it's gone way over to the other direction, that you are pulling the rug from under people who have been able to establish stable lives in their neighbourhoods.

I'm glad to see that Ms Bassett has arrived. I remember early on when you got elected that you and I attended a meeting at the Manulife, which is one of the largest rental buildings in my ward, in your constituency. It was reported at that meeting that recently Metro had estimated a 38% increase in evictions in the Metro area. We know where that number comes from. It comes from your government cutting people's welfare and in particular their shelter allowances. You have forced more people out on to the street, into shelters and not being able to afford their own apartments.

The city of Toronto has prided itself on being able to build stable neighbourhoods. This piece of legislation is moving in the opposite direction. In fact, in the six years that I've been a councillor in ward 6, the number of tenants' associations has almost evaporated in the whole of the ward because there has not needed to be a tenants' association that is constantly having to go to battle to protect the rents that they're paying. What you're doing is going to help us organize in the future. You're placing people at risk, you're going after the mainstay of their security, which is their homes and their apartments.

Frankly, there's no need to do this. We know from other jurisdictions that you do not need to get rid of rent control to spur new housing development. It has not been the case in BC, it's not been the case in New York. Vacancy decontrol has not served the purpose you think it will, which is to create new rental accommodation.

I just hope that members of this government take into account the people they don't see every day, take into account the people who are not able to lobby them, take into account the people who are living below the poverty line. I remind you, the United Way report talked about a 30% increase in the number of children who are in poverty. Many of them are living in apartments in this city today and you're dragging them further into poverty and on an ideological collision course with our future.

1340

Mr Kwinter: Thank you, Mr Rae, for your presentation. I was particularly interested in your concerns about work order compliance and the removal of the provision that there can be no rent increases while work orders are outstanding. If you could project, what do you think is going to happen to the buildings that normally were sort of pressured to get their act in order, in order to be able to raise the rent? How do you feel that's going to impact in your particular area?

Mr Rae: In the area I represent, many of the high-rise buildings were put up in the 1950s and the 1960s. What they've experienced over the last five or six years is a great deal of renovation. Elevators, balconies, security into the garages and the roofs of the garages have had to be repaired; stairwells and the alarm systems have had to be upgraded. If we were not able to use an instrument like the OPRI to get landlords to respond to these work

orders, we would not be able to provide people with safety in their homes. We know that some of the finest buildings in the ward physically on the outside are beginning to deteriorate on the inside. The hot water, the service of water, the air conditioning, if they have it, or heating are beginning to break down and the landlords have not, over the last 20 years, been willing to invest in that and to upgrade.

What I can see happening — and it's beginning to happen in the smaller, maybe the five- to six-storey buildings — is the larger buildings have gone through a repair program, but the ones that are five, six storeys high, you're beginning to see a real deterioration in the condition of the buildings. People are wanting to make choices about where they live because the degradation of their housing condition is increasing, but they don't have a way out, given that they may well be on fixed income or that there's no alternatives that they can afford. We're finding that people are being trapped in living conditions that are below standard, and as the OPRI is in place now, the city has been very effective with its building officials in fire and health safety in the health department to go in and investigate and to ask for orders to improve them. But without that in the future, a system that leaves us to the plodding pace of the provincial court will mean that people will be in limbo for one or two years waiting to see what will happen or whether or not the landlord will repair or whether they will flip the properties. It'll be, I think, a catastrophe for the housing stock in the city, as well as major cities in Ontario.

Mrs Munro: I just want to ask you if you feel there is a problem in terms of the vacancy rate we have, particularly in Toronto.

Mr Rae: Yes, I think we do have a severe problem in downtown Toronto with the vacancy rate. It's more and more difficult for people to find housing that they can afford. I think the major culprit in this is the provincial government having walked away and turned its back on the social housing program.

The city of Toronto has, I think, about 30,000 or 40,000 units of social housing, whether it be co-ops or non-profit housing, and they have been very successful in providing people who have fixed incomes to be able to afford housing in a mix that has been very successful.

The failure of that program to be continued by this provincial government has meant that it caused a greater dislocation in the housing stock, that we don't have new units going on line. I don't think that's because the private sector is not interested in building rental units. My sense, in seeing what has been happening in other jurisdictions, is that rental accommodation is no longer the form that developers want to build. Condominiums are far more efficient for them.

They can sell them off. They can get their financing from the banks easier. They have to presell them and when they have built, the condominium corporation takes it over, so they're no longer involved in having to maintain these buildings. There's a whole new structure that

takes over the maintenance and care of these buildings, and they can walk away. They've got their money in and out in a very short period of time, with their profit. Fine. However, this fails to provide us with the alternative, which is the social housing program I was keenly in support of.

The neighbourhoods of downtown Toronto have been rebuilt by that. If you think, 10 years ago, downtown Toronto was a sea of empty parking lots, and we have created communities and neighbourhoods out of those seas of parking lots. That's something the provincial government can be very proud of, but I think this provincial government has not measured how significant that has been in turning around the capital of this province and making it a safer place.

The Chair: On that note, Mr Rae, I'd like to tell you we've run out of time. I thank you for your usual succinct presentation. I also thank you for mentioning the principal town in my riding, Orangeville. It's a wonderful place to live. Thank you very much for coming.

Mr Rae: I wish the people of the city of Toronto had as much influence as those in Orangeville. Thank you.

The Chair: We all have our bailiwicks, don't we?

DAILY BREAD FOOD BANK

The Chair: The next presenter is the Daily Bread Food Bank, Sue Cox, executive director. Good afternoon, Ms Cox.

Ms Sue Cox: Good afternoon to you.

The Chair: We have your written presentation.

Ms Cox: Yes, I submitted it. I'd like to thank you for allowing me the opportunity to speak to you today about this bill, and particularly about one part of it.

The context for my presentation is of course the Daily Bread Food Bank, Canada's largest food bank. We are distributing over a million pounds of food a month to a variety of community agencies and food banks throughout the greater Toronto area. We also provide direct assistance from our warehouse on Lakeshore Boulevard. But in addition to that, we have a particular interest in reducing the need for food banks. To help us with that, we conduct primary research with food bank users, and that has formed the basis for a number of briefs I've presented.

We interview in particular between 900 and 1,000 food bank households annually and get a lot of data from them about their condition, the things that would make a difference to them and the things that might eventually lead to their not needing food banks. That leads to a particular concern we have with the issue of housing. That of course is that rental costs and access to affordable housing are major reasons for food bank need, and anything that drives up the cost of that housing is sure to increase the numbers of people who need to turn to food banks for assistance.

There are a lot of things we'd like to say about this bill. We're frankly very fearful about the end of rent

controls, and with reference to that, I've asked the clerk to distribute to you, along with my brief, a paper that we brought out about a year ago which speaks to the issue of the amount of money people pay for rent and what they have left over to purchase food.

I'm not actually going to speak broadly right now about the end of rent control, but rather I'd like to speak to the issue of discrimination against low-income people in housing. In particular, I'd like to speak to this committee about amending section 200 of the bill, which of course would amend the Human Rights Code to provide an exemption to allow landlords to use income criteria to discriminate against low-income people. That's of concern to us because we've seen so much of this type of discrimination. It's likely to have, along with the end of rental control, a devastating effect on large numbers of households who are already struggling to get into rental accommodation they can afford.

More context: 97% of food bank users rent the accommodation they live in. They typically live in market rental housing. Fewer than one in five are actually in subsidized housing. Rent is a major contributor to their difficulty and their inability to afford the food they need. They spend 60% to 70% of their income on rent, and perhaps more than that. Some 68%, more than two thirds of them, pay rent which is above the social assistance limit, so they're already diverting food money, essentially, from the basic needs part of their income, diverting that money to the landlord to pay their rent. If they don't have subsidized housing, it would be essentially unheard of for them to be paying 30% of their income towards their rent. It just can't happen.

1350

One thing they do have in common is that they pay their rent first. When a welfare cheque comes, or whatever the source of income — a paycheque for many, many underemployed people — the rent comes first. People know very well the devastating effects of losing their housing and the difficulty getting back into housing once you're homeless.

Over the last 20 years, the costs of housing have increased enormously and their incomes have been shrinking during that time. Shelter costs are the immutable costs for food bank users. The flexible item in their budget is food. That is why they go hungry and that is why they need food banks.

Children are 41% of the people relying on food banks right now. If there's sort of a snapshot of a food bank household, it's a family where the head of the household is between 35 and 40 years of age; probably, although certainly by no means always, headed by a woman; and that woman is supporting children. These are the people I think will suffer great discrimination under the current legislation as it's proposed.

I'm going to tell you a story, if I may, about somebody I know who happens to be a volunteer at the food bank. That's why I know it very well. She's a woman who's on welfare and she has suffered discrimination in housing

because she was on welfare, even though it was under the guise of income criteria. I'm telling you this story just to make absolutely clear what I'm talking about. She has good credit; she has good references; she has had no difficulty with tenancy in the past in her life. She's not a particularly well educated person, but most of her life she's had a job. During this period of time she did not have a job and she was on welfare. She was renting a room in a household. The household was moving and she needed to find alternative accommodation.

She looked around in the housing market and, like so many people in her situation who are on welfare with very little money, she found some pretty rotten places. I think maybe — maybe or maybe not — you know about some of the housing that's available at the very low end of the rental market and which is affordable to people who are on welfare. But through a friend she was able to identify a bachelor apartment which was not that much above the shelter limit. In other words, she didn't have to divert too much of her food money in order to pay the rent. It was in the basement of one of these big high-rise buildings that are run by large property companies.

When she went to find out about the apartment, the super there said that she couldn't rent it because they had a 30-70 rule. They had a rule that you could only spend 30% of your income towards rent or they wouldn't rent to you. She came to me and said: "I can't believe this. I've always been a good tenant. What's happening?" So I called the property company. I thought this must be some mistake. I called them up and I talked to them; I went past the super. I said, "Do you know that this effectively discriminates against people on welfare because somebody on welfare can't have their income structured in such a way that it's possible that only 30% would go towards rent?" He said: "That's too bad. That's the rules. I can't go around the rules." I said, "I think you could, actually." He was a very high-up employee in the company. "I don't know that this is valid." He said, "Why don't you just go to the province and have them give people on welfare more money and then it wouldn't happen?"

That's the kind of thing that's happening to people out there. That discrimination was not overtly because the woman was on welfare. The discrimination was based on the idea that she could only pay 30% of her income on rent, but that effectively discriminates against everybody who's on social assistance just because of the structure of welfare. That's what this particular section of the legislation would allow to happen more frequently, in my opinion, than it does now. In fact, as part of the survey the food bank uses that I referenced before, we found that 46% had been refused accommodation, been refused apartments, because they were on social assistance. So almost half of the people we surveyed had had this experience of discrimination because they were on social assistance, whether it was overtly or whether it was in this other implicit way through the 30-70 rule.

Some 63% reported that the apartment they were refused was in fact cheaper or better than the apartment they eventually ended up in. They are being denied some of the better accommodation around because of the 30-70 rule and because of that kind of discrimination.

There has never been any study that shows any correlation between rent-to-income ratio at the beginning of the tenancy and the likelihood of default. It makes absolutely no sense to allow that, and to somehow enshrine it in the law seems pretty irrational to me. It might seem on the surface as though low-income households are more likely to default, but in point of fact they are much more likely to know the consequences of doing so than a lot of other families.

People on social assistance, people who use food banks, are very good copers. I talked about this a lot before. They scramble and they have to be able to cope very well with very little income. I think what's happening now is that the big property companies in particular don't really understand the very sophisticated coping mechanisms that people exercise now. All social assistance recipients and people in that low-income situation have given up things when they have lost work, have sold things in order to get by, have given up recreation and entertainment. They get more bang for their buck nutritionally at the grocery store than any of us do. They do very well. They go without winter clothing. In point of fact, they build going without meals into their budgets in most instances. When we asked food bank users what they would do if there were no food banks, 35% of them said they would go hungry. Nobody said they would fail to pay their rent as a result of that.

One of the things we find ourselves doing more and more is trying to introduce low-income people to business people and middle-income people, because frankly we think low-income people have had a bad press. They got to be an easy target for a lot of folks, particularly in the recession, and there was less sympathy towards them when employment was particularly high. So we've tried to spend some time talking about the people we know, introducing them to business people.

When that happens, we usually find that people who have never been poor are amazed to find how ordinary they are. These are not bad people; these are not even stupid people. These are people who are victims of circumstances which are beyond their control. They are people who want to hang on to their dignity, who want to hang on to their normalcy, and I think perhaps that might be understood.

In fact, the tenants we know who are renting from small landlords tend to have very good and understanding relationships with their landlords, but what this bill does, in my opinion, is allow the large property companies to discriminate against them, and that's what I'd really like to speak against.

I'm sure you will have some questions, so let me just sum up by saying that these apartments I'm talking about that it's difficult for people to access are often the ones

that are better and cheaper. I think it would be unwise to deny low-income people or people on welfare access to cheaper housing, because in the end you pay for it through social assistance. They can get housing that's under the shelter limit and then the government would find itself paying less money to these people. So it makes no sense to make discrimination more legal or to allow landlords to do it more easily than happens now.

I'll stop now and let you ask me questions, if you will.

The Chair: I know members have some questions.

Mr Gilchrist: Ms Cox, good to see you again. Thank you for making your presentation before us here today.

I have a couple of questions for you. Let me just start with one of the examples you yourself gave. You talked about interviewing people, and I think you used it in the plural. You said it was a significant percentage of the people you had surveyed who said that the apartment they were turned down for was cheaper. Would it not then follow that another landlord obviously deviated from the 30-70 rule? If it's the more expensive landlord who winds up taking that person, that would seem to rebut the case that there is not a place for people to go if it is assumed that this 30-70 is a magical and a fixed rule in the mindset of landlords. Would that not be true?

1400

Ms Cox: The 30-70 rule is most common among large landlords. The big property companies are the ones that are most inclined to do that, and they often have cheaper accommodation. The more expensive landlords are oftentimes the smaller landlords who have buildings with fewer units in them and that kind of thing, and people pay more.

Mr Gilchrist: So when you said "better units," you meant units in larger buildings perhaps?

Ms Cox: They were either cheaper or better or both. In other words, they were more desirable for them. They had to forgo the more desirable apartment because of discrimination.

Mr Gilchrist: We heard earlier, in the first week of hearings here, that the number generally accepted is there are 150,000 people in this province who are paying above the 30% rule. Is it your submission that simply by stating that it is a right — it is not banned under the act right now; it simply clarifies the situation — that the landlords of those 150,000 will now simply throw those people out and will take zero rent rather than the income they're getting?

Again, would the fact that there are landlords who have deviated not make the case that — there are 150,000 apartments where they haven't used an arbitrary 30-70 rule. They have clearly looked at the circumstances of each tenant and have made a decision based on their ability to pay. Why would that change if this —

Ms Cox: I would applaud those landlords, but I am afraid they are only some of the landlords. You talk about 150,000; far, far more are low-income people in rental accommodation in the Toronto area right now, far more than 150,000 people, so that is a minority of people. I

would also submit to you that those apartments are very often in the more run-down buildings. They are not in as desirable accommodations.

Mr Gilchrist: But you're not suggesting that those landlords will throw those people out just by clarifying something in the act, are you? They'll continue to stay.

Ms Cox: With respect, sir, I don't know that whether people are going to be thrown out or not has anything to do with it. What I am saying is that people moving into — we have lots of situations right now where people on welfare are in apartment buildings where 30-70 rules apply, who rented those apartment buildings when they were employed and now find themselves on welfare. No, they're not thrown out — I am not saying for a moment that they would be — but new people can't get into those buildings.

I think of my own daughter, for example, who was able to rent a very affordable apartment. She is a person who happens to have a good job; she is an engineer. She was able to rent it over and above somebody on welfare, even though she could afford more. That's really quite a typical situation. A lot of other people are doing very well in apartments because of discrimination against low-income people by landlords.

Mr Kwinter: Thank you, Ms Cox. I'd like to pursue this area. I haven't heard of anyone putting forward the proposal that people are going to be turfed out of their apartments because suddenly people are going to apply the 30-70 rule. The concern, and it was expressed by Mr Norton, who was dealing with the human rights, is that people will be discriminated against getting into the apartments by using this criterion. And not only the 30-70; someone who may be a recent immigrant or a student or someone else who doesn't have a rental history can be turned down because they don't have that rental history; they can't show their income stream in a way that is satisfactory to the landlord.

That is a great concern. The landlord has the ability to collect the last month's rent, so he certainly has a 30-day or one-month leeway if he finds he has a problem with a tenant. There are also ample provisions to protect a landlord from the tenant from hell, where they have a history of being an undesirable tenant.

I'm agreeing with you. I think the provisions — I think it's section 200 of the act — dealing with this requirement are going to create a lot of needless problems and are going to create some very serious strains on people who should have every right to seek an apartment that they think they can afford and not be discriminated against solely for that.

Ms Cox: I absolutely agree, yes.

The Chair: You've run out of time.

Ms Cox: There you go.

The Chair: We thank you for coming.

ONTARIO ASSOCIATION OF PROPERTY STANDARDS OFFICERS

The Chair: The next presenters are from the Ontario Association of Property Standards Officers: Joseph Perrone, Frank Weinstock and Peter Clark. Good afternoon, gentlemen.

Mr Joseph Perrone: Mr Chairman, members of the committee, ladies and gentlemen, good afternoon. My name is Joseph Perrone. I am the chief property standards officer for the city of North York and president of the Ontario Association of Property Standards Officers. Also with me today is Mr Frank Weinstock, chief property standards officer for the city of Scarborough and vice-president of OAPSO, and Mr Peter Clark, who is chief property standards officer for the city of Kingston and secretary of OAPSO.

The Association of Property Standards Officers was founded in 1975 to provide training for all municipal personnel who are engaged in the administration or the enforcement of legislation governing the maintenance, occupancy, repair and improvement of property and the environment pursuant to the Planning Act.

In recognition of OAPSO's continuing efforts to educate and train its membership, the provincial government on June 25, 1992, passed Bill Pr22, the Ontario Association of Property Standards Officers Act, 1992, private legislation that allows for the certification of those members of the association who meet the established regulations.

The association membership currently numbers more than 750 individuals representing over 225 Ontario municipalities and government agencies. As such, OAPSO has a keen interest in Bill 96, as it introduces changes to the laws governing maintenance and occupancy of property. Because OAPSO members have hands-on involvement with the enforcement of the property standards bylaws, as well as other bylaws, OAPSO is in a unique position to provide input based upon actual enforcement situations. These experiences form the basis for comments which will exert a more efficient and effective enforcement of property standards and other bylaws and reduce costs to municipalities. In fact, OAPSO has spent considerable time in developing proposals and recommendations to amend section 31 of the Planning Act as it relates to property standards enforcement. These recommendations were presented to the Ministry of Municipal Affairs and Housing prior to the bill being introduced.

I will now turn it over to Mr Frank Weinstock, who will take you through OAPSO's submission and the proposed changes we are submitting for the committee's consideration. Afterwards, we'll be happy to answer any questions you may have.

Mr Frank Weinstock: Maintenance of apartment buildings is a major concern to landlords, tenants, municipalities and the public in general.

Under the maintenance provisions of Bill 96, the government hopes that by allowing landlords to move to a market rent level once a unit is vacated, landlords will be encouraged to keep the buildings sound, in good repair and attractive. However, in the event that landlords need that little push, the changes proposed to section 31 of the Planning Act, henceforth sections 15.1 to 15.8 of the Building Code Act, are designed to aid in the enforcement of property standards bylaws. These changes are a welcome effort by the government to address issues previously brought to the attention of the ministry by OAPSO.

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After having reviewed those sections which most directly affect the enforcement of maintenance and standards by OAPSO and its members, our association has provided the ministry and you with written comments for your consideration. The comments contain a number of technical changes to the proposed wording of specific sections which our association considers significant if the enforcement of maintenance and standards are to be improved. These include the definition of "officer"; the issue of service and posting of an order; the provision of discharges of orders at owners' expense; service of notice of appeal by an owner on the municipality; and transitional rules for sections 15.1 to 15.8. It is not our intention to review each of these at this time, unless it's the wish of the committee for us to do so. However, we do encourage you to consider each of the technical changes seriously.

Our presentation will address three issues which are of particular importance, namely, the failure to include a provision that corresponds to section 71 of the Planning Act and the current bill; the recovery by a municipality of its costs as taxes; and OPRIs.

With respect to our concerns about the failure to include a section comparable to section 71 of the Planning Act and the current bill, we refer you specifically to paragraph (e) on page 5 of our written submission. Subsection 212(3) of Bill 96 amends the building code by restating, with some modifications, similar provisions as contained in the present section 31 of the Planning Act. However, the bill fails to include a corresponding section to section 71 of the Planning Act, namely, and I quote, "In the event of conflict between the provisions of this act and any other general or special act, the provisions of this act prevail."

We refer you to the case of *Re Yorkville North Development and the City of North York*, which case may be found at 64 Ontario Reports (2d) 225. In that case, a property standards officer issued an order under section 31 of the Planning Act. The recipient of the order appealed to the property standards committee and then to a judge of the district court, now the Ontario Court (General Division), as provided for in section 31, both of which orders were confirmed.

The corporation subject to that order then appealed to the Court of Appeal. That appeal was quashed, with the

court noting that subsection 31(19) of the Planning Act provided that the order as confirmed or modified by the judge shall be final and binding. The court went on to say that in view of section 70, now section 71 of the Planning Act, which provides that in case of conflict the Planning Act has priority, and because subsection 31(19) is a special provision concerned with the administration of a property standards bylaw, subsection 31(19) overrides subsection 36(1) of the Courts of Justice Act, which confers a right of appeal from a final order of the judge of a District Court.

It's OAPSO's submission that a section comparable to section 71 of the Planning Act should be included in the new legislation or any gain in shortening the period for enforcing property standards bylaws at the front end by eliminating the requirement for notice may be more than offset by more and extended appeals.

We have offered a recommendation for possible wording for section 15.9 in our submission which reads as follows:

"In the event of conflict between sections 15.1 to 15.8 inclusive of this act and any other general or special act, the provisions of sections 15.1 to 15.8 inclusive of this act prevail."

With respect to the recovery of costs by a municipality, without the certainty of recovery of costs of "repairs," municipalities will be reluctant to expend funds.

Part VII of Bill 96 restates the vital services provisions presently contained in the Municipal Act, section 210.2, without change. As a result, moneys expended by municipalities are not elevated to the status of municipal real property taxes. In fact, funds expended only become a lien after registration of a notice in the land registry office. Further, subsection 139(3) specifically provides that section 382 of the Municipal Act does not apply and no special lien is created.

If vital services bylaws are ever to be adopted by municipalities, municipalities need certainty as to the recovery of moneys expended. Since Bill 96 includes provisions for both sections 15.4 and 15.7 to recognize the funds expended by municipalities to undertake repairs pursuant to the property standards bylaw, either in the normal course or in the course of an emergency, it would seem appropriate that the same cost-recovery provision should apply to funds expended in restoring a vital service. In fact — and it may be beyond the powers of the committee — OAPSO is of the opinion that the same recovery provisions, that is, any funds expended by a municipality in the enforcement of any bylaw, whether property standards, vital services or the multitude of Municipal Act bylaws, should be recoverable as municipal real property taxes.

The final issue is that of orders preventing rent increases, OPRIs. Although Bill 96 continues to recognize those OPRIs which existed prior to the passage of the act, the provisions of the new act do not permit or provide for any new OPRIs or any form of OPRI based

upon property standards orders issued by municipalities. The inability to trigger the issuance of an OPRI is of concern to OAPSO. The loss of the ability for the province to issue a rent-freeze order based upon an outstanding municipal order is a loss of leverage that may deter some landlords from acting quickly in carrying out the repairs.

We understand that there are many OPRIs in place which have not led to repairs or improvements in building standards. But on the other side of the coin, there are many landlords who have undertaken repairs, often reluctantly, rather than face a rent freeze and the administrative procedures that follow. Some form of rent-freeze mechanism should be retained or created.

A halfway measure may be a return to procedures similar to those in place with the Residential Rental Standards Board, namely, the municipalities, at their option, forward to the board those property standards orders that dealt with serious violations that had an impact on health and safety of tenants, such as structural problems, inadequate heat, fire safety, plumbing defects. The optional nature of the filing of the order permitted municipalities to negotiate with landlords prior to the forwarding of the order to the board, and the principle of substantial completion permitted municipalities to negotiate with landlords after the orders had been filed. Or perhaps a different approach may be developed.

One concern often expressed about OPRIs is the inordinate length of time to hear the issues involved, and as a result rent freezes may be unduly long and unfair, thereby restricting cash flow and impeding the necessary repairs. It's obvious that timing is everything.

That different approach to OPRIs may be tying it to the new tribunal being proposed by the bill. The OPRI could be an administrative order issued at the time of a tenant-commenced action, if certain criteria are met; that is, a certified copy of a municipal work order which has been duly confirmed pursuant to the processes of the new sections 15.1 to 15.8 is filed at the commencement of the action. The administrative OPRI would then be served upon the landlord along with the notice of the newly commenced action. The OPRI would then be in effect and would preclude unwarranted increases until the tenant action is heard by the tribunal. This would provide a swift and timely mechanism for addressing the issues for both the landlords and tenants.

In conclusion, OAPSO supports the principle of streamlining the laws and processes governing the maintenance and occupancy of properties. Our association encourages you to consider seriously the technical changes proposed in our submission, including those with respect to the definition of "officer," the issue of service and posting of orders and transitional rules, as well as those matters with respect to the inclusion of a section akin to section 71 of the Planning Act, the recoverability of costs as taxes and OPRIs, which have been detailed in our presentation today.

We thank you for the opportunity of making this submission and will attempt to answer any questions you may have.

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Mr Kwinter: I'd like to get a clarification. What is the interpretation of your association of "vital services"? What follows?

Mr Weinstock: Vital services are defined in a section of the Municipal Act and in the new bill, and we would deal with those. Vital services I would assume would be hydro, water, heat, gas, those issues.

Mr Kwinter: The reason I'm asking is that if you are a tenant and you have electricity and you suddenly don't have electricity, and the municipality has to come in and do it, is that not their obligation as opposed to the landlord's, where he suddenly gets a lien, or in your case you want to put it on his taxes, to pay for that?

Mr Weinstock: Correct.

Mr Kwinter: What I don't understand is that when there are these vital services that the municipality provides, and suddenly you have to go in and make some repairs to those vital services, I assume those vital service repairs are outside the building and not inside the building.

Mr Weinstock: You're talking about repairs. "Vital services" deals with the failure of the landlord to pay his bill, and as a result vital services are turned off. All we're saying is that if you ever expect a municipality to pass a vital services bylaw, they are not going to expend those funds necessary to pay the arrears unless they have some certainty of recovery, and at this point there is no certainty of recovery.

Mr Kwinter: You feel that if a lien is put on the property, that doesn't give you the same certainty? What happens if you don't pay your taxes anyway?

Mr Weinstock: The difference is that real property tax takes a first priority whereas a lien would be subject to any prior taxes outstanding and any other mortgages or liens that exist prior to the issuance of that new lien, so it's strictly a priority issue.

Mr Kwinter: So you're suggesting that if there's a building with 150 tenants and you are in a dispute with the landlord, that's too bad for the tenants, they're going to have to suffer until you get your landlord sorted out?

Mr Weinstock: What I'm saying is that if the expectation is that the municipality is going to bankroll all the arrears of landlords who do not pay their bills, they need to have some ability to collect those funds back. Otherwise they don't have sufficient funds to do so.

Mr Gilchrist: Mr Weinstock, it's good to see you. Just a clarification for Mr Kwinter. Correct me if I'm wrong, but a supplier of a vital service must give a municipality 30 days' notice if it intends to discontinue any of those services, which then gives the municipality, via these gentlemen, the opportunity to add some extra weight to whatever pressure is being applied by Hydro and others, so hopefully you won't see this as a very frequent occurrence. But I appreciate your comments

about adding it to the taxes and perhaps cutting out one extra bureaucratic step here.

Just a very quick comment: Thank you very much for your technical suggestions, and we'll certainly take them under consideration. I think they're very reasonable.

On your final point about OPRI's, do you have comments? I guess it's just two different ways of approaching the same problem. We have proposed to set very high fines against any landlord that violates these sorts of standards. Do you have any representations as an association in terms of how high those fines have to be or whether you see that as being an effective way to bring a discipline and to make sure the tenants are protected in terms of health and safety issues?

Mr Weinstock: I think you could probably raise the fines to a billion dollars and it would make no difference, because the value of a fine is only that which is rendered by the JPs who hear the cases, and JPs in most cases are reluctant to issue large fines even to the amount that's available now, so increasing it to \$100,000 or \$1 million will make no difference unless they are prepared to render the fines against the individuals when the cases are heard.

Mr Gilchrist: A fair comment historically. Moving to the new tribunal which will be charged exclusively with rental issues and will now have the sort of expertise and presumably the discipline to focus their efforts on making sure that the spirit and the specifics of the bill are adhered to, that issue aside, the historical problems some people may have had — enforcement is really the question I'm getting at — on the assumption that fines become a reality, would you not see that as being just as effective a deterrent as an OPRI?

Mr Weinstock: Not on behalf of the municipality, because the municipality has no status before the tribunal.

Mr Gilchrist: But in the real world, if the landlord is faced with a \$100,000 fine, for example, would that not be of even greater concern? I know of the problems you've had, for example, on Saunders Road in Scarborough, a chap you've been chasing for 14 years in the municipality under the current situation. It still hasn't gotten him to clean up his act, so it seems to me the status quo isn't working. We're proposing something different, and I just wondered whether you folks had an idea at what value fines would become an effective deterrent.

Mr Weinstock: I couldn't give you a number.

Mr Perrone: I don't have a number, but unless the courts, and especially the JPs, get educated on property standards and bylaw enforcement, we're not going to see the type of fines you're looking for.

Mr Gilchrist: I appreciate that feedback.

The Chair: Mr Marchese, thank you for informing the committee that you would be detained. I assume you're passing?

Mr Marchese: Yes, Mr Chair, and I wouldn't mind giving my time to Mr Gilchrist if he would like.

Mr Gilchrist: I think you effectively just did.

The Chair: I think you just did. Thank you very much for your concern.

Mr Marchese: Did I just do that? Thank you for mentioning me.

The Chair: Thank you very much, gentlemen, for coming.

HOME-OWNED, LAND-LEASED ASSOCIATION

The Chair: The next delegation is the Home-Owned, Land-Leased Association. Fred Cox and Jim Glover are members. Good afternoon. You may proceed.

Mr Fred Cox: Thank you for inviting us. I'm sorry we don't have a handout. We just haven't had the time to do that. Last night and this morning I was still polishing up what I have to say today, so maybe we could prepare it and send it to you later.

The Chair: That would be acceptable, sir.

Mr Cox: Thank you for inviting us here today to make our views known to you regarding Bill 96.

When it comes to housing, the people of Ontario have been divided into three neat, tidy groups: You have the tenant groups, you have homeowners and you have condominiums. A large body of law has been developed and refined over the years to deal with the conflicts that can and do arise within each of these groups. Any real estate agent will be able to explain to you the rules and regulations that go with these three situations.

However, we're here today to represent a fourth housing group that has slowly evolved over the last 25 years, for which there are literally no or few laws to deal with the inevitable conflicts that can and do arise between the parties involved. This fourth group, the majority of whom are seniors, own their own homes but lease the land they sit on.

These homes are in what are called — they can be called anything. They can be called parks, estates, subdivisions or whatever the landlord decides will help sell his homes. Our homes have been called many things. They've been called trailers, mobiles, modulars, double-wides, single-wides, park models, manufactured and site-built. As a matter of fact, my wife pointed out to me an advertisement yesterday in a seniors magazine. It seems there's a land-leased community north of Toronto that is just advertising they'll build you a brick house with double garages.

Whatever they are called for marketing purposes has no bearing whatever on their size, quality or cost. Whatever our homes are called, they all share four attributes: (1) They are year-round residences, as opposed to seasonal; (2) they're certainly not mobile; (3) they are in a community where the land is leased; and (4) we pay taxes like every other homeowner, in our case directly to the city of Wasaga Beach.

How many there are of us is hard to say. There are over 100 land-leased communities in Ontario, and they

range in size from about 100 homes to 2,000 homes. As a result of the many conflicts that are bound to arise between homeowner-tenants and landlords, a federation of representatives from interested communities was organized to see what could be done to solve these problems. The federation is called, naturally enough, the federation of land-leased, home-owned communities. When this organization was formed, it was quickly realized that in most cases — not all, but in most cases — the problem was not unreasonable tenants and/or unreasonable landlords, the problem was the lack of laws and regulations dealing with our specific situation.

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The rules and regulations that govern every community are a straight reflection of the personality and the attitudes of the landlord, when what they should reflect is a fairness to both parties as seen by an objective third party. With the understanding that this is the role of government, the federation has been struggling manfully, first, to get the attention of the provincial government of the day and, second, to get some action on the issues that concern us.

The NDP government under Bob Rae did manage to find the time and energy to pass legislation that dealt with some of our problems, and this legislation was inserted into the existing Landlord and Tenant Act. It was less than what we wanted, but it was a beginning and we are grateful.

All of what I've said so far is, of course, background. Now let's deal with Bill 96. Part V deals with us specifically. It is not our intention to deal today with this section point by point. We will leave this to others who will probably submit this in the future. However, there is one item in part V whose significance to us outweighs all the other sections, and we would like to spend our remaining time on it.

Part V states that the purchasers of mobile homes — and I trip over that term "mobile" because it's so inadequate — can only be charged the lawful rent charged to the previous tenant plus an as yet undetermined prescribed amount. The prescribed amount will be set out in regulations.

To my knowledge, we have not received any indications to date as to what the formula will be to arrive at this prescribed amount or the basis for this formula, and we've had no indication as to when this will be done. It is of course impossible for us to comment on an unknown. The suspense is very unpleasant for our homeowners, as the marketable value of our homes will be directly affected by any rent increase, let alone a substantial one. We are talking here of a major investment, if not the only investment, of most of our people. Their homes represent their nest eggs.

I would have liked to have come here today with a suggested formula that would be fair to both parties, landlord and homeowners, tenants, but we know that the number of variables that would apply boggle the mind. We appreciate the difficulties that our very existence

creates for you as legislators. We are like dolphins caught in your fishing nets: We don't know what we're doing here.

The stated purpose of Bill 96 is to take an action that will increase the number of rental units available for the citizens of Ontario, a very laudable goal. Our members are at a loss to understand how devaluing our homes to any extent leads to more rental units in the province. The only real solution to this conundrum is to deal with us as we really are: a completely separate group with completely separate problems and solutions.

There is no logic to this at all, ladies and gentlemen.

Mr Jim Glover: I was listening to Bud and looking around for a bit of reaction here. Just to add to Bud's conundrum, for 10 years we had a 4% vacancy rate in our park; that's pretty darn low. For the last three years, since the media have been talking about the probable abandonment of rent control, that has now climbed to 10% vacancy. People come in and say, "What's wrong with your park?" There's nothing wrong with our park, but it's an image, so the saleability of the house has gone down as well as the houses being devalued. Years ago they were worth a lot more money than what they are today, and people are worried about it.

We feel a lot of pride in our park. For instance, Bud mentioned about municipal taxes. We pay \$1,400 on our home to the municipality of Wasaga Beach. The homes are on foundations. They're connected to the services underground. As he said, you can't very well move them out without dragging all the sewer lines and the electric lines and gas lines with them. So they are not movable.

If it were possible to clear up this uncertainty of the formula, when the formula is in place — we're not arguing what the percentages should be or anything. We can live with it so long as the uncertainty is out of it. That is what we're after. So a cap in the formula to say the new purchaser will pay so much rent, regardless of what the other one did, that's history. Then at least the home is marketable. So if it were possible to subdivide part V into legislation for these kinds of communities, regardless of whether they're called villages or estates — ours is called a modular home community because that's what we are; others are site-built homes and they're called a manufactured home community or whatever — and make a clause for us to pertain. Whatever the park owner must charge for the new occupant of that house once we sell, that's the bottom line.

The Chair: The Chair has one question for you. The property that is leased, how long is that lease, on the average? Can it be anything?

Mr Glover: Ours was five years. Our lease was five years 14 years ago, and it's been month-to-month ever since. That's the case in many of the —

The Chair: So they're not long-term leases. These are generally short-term leases.

Mr Glover: No, but you just continue grandfathering on that basis.

Mr Cox: The answer is that there's no one answer. Every community has their own rules and regulations, and even within the same community. I, for example, had a 10-year lease, which runs out in two years. Others don't have any. It's a hodgepodge.

The Chair: Right. Mr Marchese.

Mr Marchese: I appreciate the worry that you're communicating here. The fact that this as yet undetermined prescribed amount is something that you know nothing about obviously worries you. Have you had any discussions with any of them or the bureaucracy or people in the ministry who might give you a sense of what that might be, or are you still in the dark completely?

Mr Glover: This is why we've come here. We haven't a clue.

Mr Cox: We don't know and if the federation doesn't know, who else knows? There's been no communication, to our knowledge.

Mr Marchese: My sense is that uncertainty is worrying not just a few of you, but most of the people living in their homes leasing land from whomever.

Mr Glover: Oh, yes. For us, for instance, it's a last-ditch effort. There are a lot of people who are 85 years of age in our park. To go into a nursing home — we have a couple down the block who are going into one — it's \$100 a day for a couple to live in a nursing home in Stayner. That's \$36,500 a year. Very few seniors make \$40,000 a year gross, let alone that to pay rent. They're worried about their future.

Mr Cox: Their nest egg is their home.

Mr Marchese: We've heard many tenants say the same thing. It doesn't matter who they are or where they are, that is their home. As soon as they get a rental increase they begin to worry. You mentioned that even a slight increase is problematic for most of the people living in these homes.

Mr Cox: They don't mind paying the increase; it's the fact that it reduces the value of the house. We have no idea what it's going to be. If they doubled their rent on us, and this is feasible — I mean, we think it is, although we don't really know — that reduces the value of our houses right off the bat because the two equate, they're related.

Mr Glover: As we've read it so far, it says, "a formula yet to be determined," and our park owner has said that anybody coming in will pay much more. We don't think it should be just left open like that. It should be established in the legislation: how much, what percentage factor. We're not arguing with the price, just to get the uncertainty off. That will clear it up for most of us.

Mr Cox: We might argue with the price when we hear what it is.

Mr Glover: But the uncertainty is our problem.

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Mr Gilchrist: Thank you both, gentlemen. Hopefully, we can allay some of your concerns. First, as I'm sure

you're both aware, this provision only covers your comparable situation to what's being considered vacancy decontrol in apartment buildings. So this would only be something that affects you when you sell.

Mr Cox: Yes.

Mr Glover: Yes.

Mr Gilchrist: The minister has, publicly and on a number of occasions, speculated that an amount no greater than \$50 is what he's looking at. Quite frankly, Mr Cox, you asked what is served by coming here. We would very much like to know from you people, who are most familiar with how costs have gone up and also how services have or have not been maintained, what you think a fair formula would be. Or should it be a stated dollar amount? That is the number we have basically set as the upper-end benchmark, but we're open to suggestions from you folks, and again, only the one-time occurrence when you sell your house.

Mr Cox: Yes. That's the problem. But that's the first time I've heard that figure. I know you're going to be hearing from the landlords, the people who own all of these communities in Ontario, and they're going to have their views on that too.

Our problem is even thinking about a possible formula is the differences. These things have been built over 20 years. The first ones that went in over 20 years ago were a certain type. Then the next group that went in were a little bit more expensive and a better type. As these were sold, then the next section went in. They are all different.

These were built up without any rules and regulations. The only rules that did apply were the municipal rules as to construction and so on. But these things have just developed more and more because they provide a great lifestyle for seniors. We're all together, we have our clubhouses, we have our swimming pools. Well, some do, some don't, but the variety of communities is amazing. Some have million-dollar clubhouses; others don't have any.

Mr Gilchrist: That's why we'd like to hear from you, for your specific community, and as an association, what you think would be appropriate, either a percentage or something tied to capital improvements or whatever. We're open to any suggestions you care to make.

Mr Cox: Okay, we're glad to hear that. It's a mind-boggling job, as I said. Nevertheless, we'd be glad to give you some input on that one.

Mr Gilchrist: I appreciate it. Thank you, gentlemen.

Mr Glover: Just one final comment on that, and we will do that, but the value of our home, as opposed to the value of the lot it sits on, is more than five times. That was well established by the park owner, he totally agrees, and yet we don't have a say, which is why we're looking at the uncertainty.

The Chair: Mr Klees, we're going to have to move on to the Liberals. We've got one more question, gentlemen. We've saved the best for last.

Mr Kwinter: I think you really put your finger on the problem in that what has happened is that this type of accommodation has evolved without any regulations or rules. When they were first conceived, they really were mobile homes. People had a mobile home that they put on a lot, and the expectation —

Mr Cox: They had wheels under them.

Mr Kwinter: Yes, they had wheels under them, and the expectation was that next year or next month or next week, whatever it was, if they decided they wanted to move on, they just hooked up and they moved it off. That is no longer the case. These are permanent structures.

Mr Cox: They are on foundations.

Mr Kwinter: On foundations, usually with city or municipal services in there. So conceptually there's not a great difference between them and a pre-fabricated house on a lot. It's just that you've got this basic concept of the rental of the lot.

I agree that this should be taken out and have separate legislation to deal with that kind of ownership, because it really is unique.

Mr Cox: We're not tenants, we're not homeowners; we're somewhere in between. We're fish and fowl. That's the problem we've been dealing with for a long time and it causes a lot of problems. What laws do you turn to when a conflict comes up? It's great for the lawyers and the courts, but not very good for the people who live in these homes.

Mr Marchese: With all due respect to the lawyers here.

Mr Cox: I like to see you make a good living but, you know — thank you.

The Chair: Thank you very much for coming.

ST JAMES TOWN TENANTS' COUNCIL

The Chair: The next delegation is the St James Town Tenants' Council, Cliff Martin.

Mr Cliff Martin: I think there might be some confusion. I represent the St James Town Tenants' Council, but speaking to the clerk, I also represent the public housing Fight Back campaign, and I'd like to speak on both issues.

The Chair: Well, sir, you've got the same amount of time to speak on both those issues.

Mr Martin: Okay. I'll start with public housing first. In the province of Ontario, there are 84,000 public housing units; in Metro, that's 34,000. In Metro, more than in the rest of the province, there is a fairly high turnover in housing as people move, immigrate from other countries or improve their financial condition, and what we have seen is that a lot of these people have already taken a second look. In my own community within St James Town maybe 25 or 30 people a year would go out and rent a house. They don't find that affordable now. In speaking with a group of tenants from just St George-St David, it's become clear that most of them are waiting to see what happens with Bill 96 and

rent control. Most of them are coming from something like \$500 or \$600 a month income, maybe moving as working poor to \$1,100, and then as a family later moving into something that could cost them as much as \$1,000, \$1,200 or \$1,500 a month.

I guess my issue is that with the number of tenants moving from public housing or social housing into the private sector once Bill 96 goes through, there will be less of them. They won't be able to afford them. What will happen is that the 70,000 people provincially who are on the waiting list for affordable housing will be stuck there. Actually, they'll go even lower, because right now they can afford something as it is — maybe it's a room — but these 70,000 people are going to be staying. They're not going to be moving into a co-op or a non-profit or into public housing.

I remember John Robarts years ago telling me that what he found in Britain and the United States were two important principles. People need to be housed. Even above anything else, people need to be housed. He is responsible for much of the public housing that was built in this province during his years.

The St James Town community is a community of 17,000 residents. About one fifth of them are public housing residents; about 750 of them are subsidized units. Those are in private buildings, by the way. What would happen if their rents were increased or they moved and those rents were increased and there was some sort of subsidy still? The other side of your government, Comsoc, would be stuck with paying the maximum of Comsoc to house these people as the rent control goes up.

Look at this from another view. For those people who are living in subsidized units and in public housing units, the piece of legislation with respect to the landlord being able to check these tenants out, whether they can afford the rent or not, I think would be discrimination at its highest, because we already know those people are working poor, seniors, single mothers and fathers, disabled and so on.

Also, with respect to Bill 96 as a protection act, currently in OHC or the Metropolitan Toronto Housing Authority, the Landlord and Tenant Act covers those tenants now. Under Bill 96, I think it would be doing more damage to those tenants than it could to any tenants in the private sector.

I sit outside of courts at the district court where they hold these hearings on landlord and tenant matters and I'm really glad they haven't gone to any tribunal. I mean, these judges who are sitting there are in a high court for a reason. Britain, France and the United States 80 years ago decided that for the tenant or for the landlord, their home was their castle. Once that tenant was in there and paying his rent, he had the right to the highest court he could get, and that's why it's here now. That's why these eviction matters and landlord and tenant matters are going before a higher court, because that's where they

belong. Relegating them to some sort of tribunal seems to be demeaning the tenants.

1450

In 1994, as a member of United Tenants of Ontario, an Environics study came back which indicated that tenants didn't vote much. Only about 28% of tenants province-wide vote. I think that speaks to the election in 1995 in many ways.

In St James Town we had a problem. I remember reading Hansard. Rosario Marchese had asked a question to the minister, and I think the question went like this: "If there are work orders out against the landlord by the city, would they still get their rent increases?" I think it was avoided. The rebuttal the second time: "If there were work orders outstanding against the landlord, would they still get their increases?" The answer was that there would be tools to deal with that.

I don't see any tools to deal with anything, personally. Even in public housing, it appears that the inspectors who come out don't care much because it's government-owned housing. They usually side with landlords in the first place, and the number of times that we've actually had to subpoena and pay for these people to go to court just so a resident wouldn't get evicted because the truth was that the landlord was substandard in his repairs is amazing. They want \$75 just for an hour.

In St James Town there was a landlord you might have read about in the paper some time ago who was just refusing to make any repairs, and he had bought up most of St James Town. For those who are not familiar with it, it's at Sherbourne and Bloor and runs down to Wellesley. There are 17,000 tenants living in 18 buildings there.

What happened was that we had our Metro councillor and our city councillor going to bat along with the tenants' council, trying to get this landlord to make some repairs. The MPP for the community, Al Leach, sent out some sort of form document that indicated, "Are you paying for air conditioning retroactively?" or a dishwasher, or this and this. The tenants thought: "This is good. Our MPP is right onside." They filled these out and they sent them to him. He had indicated when he met with the tenants that he would be on their side and so forth, but he's the Minister of Housing and it's a conflict of interest. What happened to that list was that it was made as a resident list for St James Town for mailers and so forth, but as an MPP, going through cabinet or in any other way, nothing else happened. It took a year and a half before these people saw anything in the way of repairs.

That means if a landlord was guaranteed or given an increase or even was entitled to an increase, those orders would still be outstanding, as they are now. There are no tools. There's nothing in the legislation that says anything different. They're going to be in the same situation. There's nothing there. I think the 72% of the tenants who didn't vote in 1994 or 1995 will certainly be voting in the future. It's bad when people get to that point where they just feel they can't do anything in the

community, but we've found in Toronto not only from some homeowners but from most of the residents, something like 90% of the residents, that they would be voting in the next election.

In the situation in St James Town where they are now getting some repairs and then that has stopped now because there's a new building owner, there are no tools at the disposal of Metro or the city of Toronto or any other municipality in the province that could rectify that. The landlord would get his rent increase, and that's it. The current guidelines would take him to court. The St James Town Tenants' Council has taken the landlord to court and still the rent increase goes through. There's no current or future legislation that indicates anything of that nature.

I might also tell you, for those people who are living in private housing, that in St James Town they are paying probably no more than \$600 for a one-bedroom apartment. We do find ourselves having a diversity, a multi-cultural community that actually cohabits quite well. Yes, they are living in a low-rent neighbourhood and their neighbours are people who live in subsidized units, subsidized by the province. Nevertheless, they are living in low-rents.

Because there is such a high turnover in St James Town, period, what is going to happen to that community once rent control goes or comes in in a certain way would be that these new people will be paying more rent for less security of tenure and there will be no repairs done to their houses now. I could have brought with me today plenty of residents who haven't had their apartments looked after in the whole year and a half that it has taken to come to both the rent control and the city or Metro. These tenants haven't had any work done. There's a new landlord now. Nothing is going to happen to them in the future.

With the working poor, out of \$1,200 a month, currently paying \$600 doesn't seem too bad, but having to move into another community, they are going to be fined just because they decide to move.

In Britain, France and the United States, where the landlord and tenant act has been held very close to the heart, they wouldn't dare move any of that kind of legislation in those countries. The different states that have done so because of the kind of communities they have there. In the southern United States where they've done that, and I think in New Jersey, they have a very ultraconservative look and they have what you call the other side of the tracks. I thought that was something this Conservative government was going to get away from. I thought they were going to get into one community. Instead, what they've done is they've basically picked up the hammer, as other communities in other countries have done, and they've actually said: "Oh, no, we're going to create this. We're going to create a slum." I can remember Al Leach, after first becoming minister, saying that St James Town and Regent Park and Jane and

Finch and places like that were slums and they were going to rectify that.

I made a presentation to Mac Carson with the Advisory Council on Social Housing Reform. It appears that the way that committee is going, they are going to be going into rent supplement units for the tenants who live in housing or those 70,000 people on the waiting list. For those people who are on FBA and GWA and mother's allowance, that will more than maximize the money they get currently. In most cases these people aren't going to be able to afford it. Most tenants who are living in St George-St David are already spending that money on rent, past the maximum. They are getting into their food money now. I'd hate to see what happens when this legislation comes through not considering people who are living in social housing, not considering people who are on mother's allowance, but instead having the landlord turn around and say: "I'm sorry. You can't move in."

Ian Scott, the previous Attorney General whose riding was St George-St David, had actually paid some people to go to see some landlords about renting apartments. The discrimination is already there. If a woman and a child who are on family benefits come there, if they are getting \$1,000 and the rent is only \$300, and if someone who is working and is getting \$1,000 comes to rent for \$300, they are already renting to that individual person. The discrimination is already there. These cases that I'm talking about, that Ian Scott did, all went to court. Whether they were racially motivated, by colour or by economics, they were convicted.

What's going to happen now is that the kind of discrimination, the type of ghettoization, is exactly like it is in Detroit. I went to the University of Michigan for four years. I was in Detroit about every third day and I saw this kind of thing. I saw what happened when they had a megacity made out of Detroit. I saw what happened when the tenants not only in the Detroit Housing Authority, by which I was employed for a short time, but also who were ghettoized, where the landlords could no longer afford to run the buildings, they burnt those buildings down. They burnt those buildings down in St Louis, they burnt down buildings in New York.

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Mr Leach talks about Cairo and France and New York and what's happening there. Cairo's a city that is catch-as-catch-can in the way they deliver their services and the way they implement their laws with respect to one thing or another. They don't even pretend to be a model for anybody. In New York one of our staff members for the public housing Fight Back campaign has worked in a quasi-public housing area in the Bedford-Stuyvesant community where there are 20 buildings and about half the tenants there are on a voucher, which is like a rent subsidy, and the other tenants are living there because it's low rent. The discrimination and the kind of community and the ghettoization that's happening there now only speaks for itself. In France we can't really call that a city because even the lowest cleaner's paycheque comes from

France; it doesn't come from the city of Paris. It's a federal city. So those three comparisons, which are the only three comparisons that Mr Leach met, are certainly all out the window. Thank you for your time.

Mr Kwinter: In your tenants' council, what did you estimate the turnover is in St James Town?

Mr Martin: Not 4,000 units, but 4,000 residents per annum.

Mr Kwinter: What is that percentage-wise?

Mr Martin: It's more than 25%.

Mr Kwinter: Effectively, with the provisions in the new bill, in theory not in practice because it isn't the same people who are turning over, every four years there will be no controls on the old system, just controls on the new system, so all new rates will then fall under a control. What is that impact going to be on the makeup of the people in St James Town?

Mr Martin: It just happens that most of the tenants who are moving are the same ones. In other words, we have a stable population of about 67% to 70%, and it's almost the same ones who either find more money or are grossly underhoused and have to move. These people are already thinking that they're going to have to move. Instead of a two-bedroom they're going to have to take a one-bedroom; if they are in a one-bedroom, then they're going to have to take a room. I don't share the discrimination of most of the members of my community, where I see eight or nine people living in a one-bedroom.

The federal government funds a program in which half the money comes from the province, half comes from the federal government, and not everyone is able to apply. They're all legal but there isn't enough housing. There's only a 0.5% vacancy rate. I suspect that if there are nine or 10 people living in a one-bedroom now, that will just increase. Seventeen thousand tenants is way over what there should be legally. I think legally there are supposed to be something under 13,000 there.

Mr Marchese: Mr Martin, the government, through the minister and all the members here, continues to say that what they need is a balanced system, that the system is broken and needs to be fixed, that they need to find some balance because it was tilted too much to tenants in the past, that they've got to restore that, help the landlords out and bring about some equilibrium. Is there anything in this bill that somehow is going to make the problems you've experienced in St James Town any easier? That's what they say they're going to do: This bill is going to help you out a little bit. Is there anything there that's going to help you?

Mr Martin: I think it's the other way. I only could afford to buy the first reading, but I looked there and I thought, "Okay, there are some issues covered." But what came to mind was that it was going the other way.

I can remember under Bill Davis when these people, this rent control group, usually had at least one developer on it, maybe one bureaucrat and maybe another homeowner, and there wasn't a balance. As the government progressed or as legislation changed back then, there

seemed to be a balance, and maybe — I don't know how — it would go towards the tenant's side. Landlords have always found a way. There's a landlord agency in Toronto that landlords can go to about tenants.

I've been working for legal clinics and so forth off and on and as a paralegal for almost 30 years. If I was going to take a tenant to court, I could certainly get him out under the current legislation. I wouldn't have to have the bill the way the first reading reads. There's no need for that. That has allowed the landlord to go to court, certainly with no lawyer. If you go to district court now you'll see that almost every tenant has a lawyer and the landlord doesn't. It's balanced now. If you were to sit outside a landlord and tenant courtroom now and speak to most of the landlords, they're actually making deals with their tenants and keeping them in. Unless they really hate them and they're causing a lot of trouble, when it comes to evictions and that sort of thing, there are a lot of minutes of settlement going on. They're not evicting much.

Mr Gilchrist: Thank you very much, Mr Martin, I appreciate your presentation here today. Just as an aside, it's not at all unusual that they don't even print second reading or take quite a while to do it because nothing ever changes after first reading. First reading will give you the same text that we're working off here today. Also, I should mention to you that this bill, as all others, you can find on the Internet. Any of the libraries in Toronto give you free access to that.

I have a question, whether your council has ever looked at an issue that would seem to me something as important and contentious as anything we're debating here today, and that's the unfairness about the current property tax assessment on apartments. Let me start off by asking you, are you aware that here in downtown Toronto the city of Toronto charges as much as 6.2 times as much as what it would charge for a single-family home?

Mr Martin: Yes.

Mr Gilchrist: Have you made representations to Toronto, or are you aware that we have now changed the property tax act?

Mr Martin: Yes, I am. As a matter of fact, even public housing tenants who live in that community were supporting the landlords on that issue. What's happened with the new owner buying up more than half of St James Town, he doesn't seem to care. He has a history of tearing down and building condos and that type of thing, so he wasn't aware. But Marvin Sadowsky, who is on the board of MTHA and was with Cadillac before, we supported him then because most of that was going into the tenants' rent. We had a little trouble persuading tenants that they should support this. I mean their rent could come down dramatically.

Mr Gilchrist: Very much so.

Mr Martin: Yes. I think there were only a few communities involved with that. We got posters, we put them up. We spoke on the issue years ago when it came

up then. We were trying to reach landlords with respect to that and what kind of moneys they're going to have to pay for public housing at the same time. We're now finding small ratepayers' associations to speak to about both issues, about the rental stock and how much they're paying for that and do they think that Metro should be supporting public housing, because of course we're meeting with the federal government now.

Mr Gilchrist: So you see this as a step forward.

The Chair: Thank you, Mr Martin. Unfortunately we're out of time. Thank you for coming.

1510

ROBERT KERNERMAN

The Chair: The next delegation is Robert Kernerman. Good afternoon, Mr Kernerman.

Mr Robert Kernerman: Good afternoon, Mr Chairman, members. I'm a manager and owner of a mobile home park. I heard not the last delegation but the one before that, which was the tenants' group. I have here today some handouts that I've distributed and I'd like to get right into some of the problems we have.

First, I'd like to talk about some information which you have which is called A New Direction. Perhaps I can just refer to page 4 on that, which has to do with land leases. We're talking here about land leases. I'm also a member of this organization which is the Ontario Manufactured Housing Association.

The last paragraph on page 4: "The Minister of Municipal Affairs and Housing has said many times that the current rent control system is not working. That is especially true for mobile home parks. The majority of mobile home parks in Ontario are in a serious financial bind, and the problem is chronically depressed rents."

If I can just stop there for a minute, I wrote the minister — you don't have a copy of my letter, but you do have a copy of his letter — in September and again in January, and I said in September — I'll just read it because I think it's quite clear:

"Mobile home parks have characteristics of self-contained urban communities. Although municipal mill rate increases have been averaging 8% per annum, mobile home parks have received much less in net average yearly increases. This has left most older parks in a precarious financial condition with debt-heavy balance sheets." I speak from personal experience, because I'm just in the process of refinancing a mortgage, which I can assure you in mobile home parks is almost impossible. "The average monthly rent" — this is net — "is \$125 a month" — that's after taxes and water — "which is extremely low."

Then I continued on in my letter: "The present rent control legislation does not take into account the need for parks to survive and to protect the investment of the tenant in his or her manufactured home. This home can average between \$45,000 and \$160,000. Surely all

parties must agree that the tenant's investment, as well as the land owner's, must be protected."

I just want to branch off here for a second. What used to be called Cedar Grove mobile home park, which is in Mississauga on Dundas Street, apparently had rents of approximately \$200 a month. I understand from Mr Brothers, who is the head of our organization, the Ontario Manufactured Housing Association, that this park was sold to a non-profit corporation from Peel region, and the rents went from \$200 to \$375 a month because they're exempt from rent controls. As well, each resident, as I understand it, has to pay an upfront fee of approximately \$5,000 to \$7,000.

I'm not saying that we're moving in that direction ourselves; I'm simply trying to point out to you that after 20 years of rent controls, when you have a very small base, you're strapped for cash, you don't have any money, and if you can borrow it when you have a very poor income and expense statement and you have a very heavy debt-loaded balance sheet, you're doing very well with your bank. I can tell you, as I say, from personal experience.

If you come into the picture and you have something like this, which is the Village by the Arboretum, oddly enough, where the land is owned — I can give you this, Mr Clerk, if you want to take it, because this relates to the other handout I gave you which talks about phase 2, where I can talk about the rents.

The Chair: This will be passed around to members of the committee if you only have one, sir.

Mr Kernerman: Okay. This is an upscale retirement community in Guelph, which is owned by the University of Guelph, which the majority of us will probably never get to. Anyway, you have to appreciate what's happening out in the marketplace. If you look at what I have in the handout here, which says "Phase Two: Fully Detached Homes," I'm not getting into the price of the homes, but what I would like to point out is on page 5 — this is all the sales information — where you get into the rents and they talk about monthly carrying costs.

For a 50-foot lot, you'll see the total is \$769 a month; a 40-foot lot is \$654 a month; town homes are \$524 a month. Our rents are about \$215 a month, so it's extremely difficult to make a go of it. What I see happening here, and I think you'll be hearing from Mr Brothers in London — he's trying to get on the list so he can talk to you, and I don't know if he can get on the list, but with your assistance, perhaps you can squeeze him in when you go to London — you'll find that a lot of our owners who belong to our association, who have these chronically depressed rents, their communities are going to slide into the same example as Cedar Grove where you're going to find that the infrastructure is going to be in a very poor condition.

I invite you, incidentally, to drive through Cedar Grove, but I don't think you should drive through it, you probably should walk, because the ruts and the potholes are such — very seriously; I'm not being funny — that

you could do some serious damage to your car. I happened to go there myself with my family just driving around. We were driving around Mississauga on Sunday, and I was quite upset because the previous owners used to be very meticulous in what they sold and what they did. Of course they're in their eighties and they sold out. I think there were some financial problems and in order to keep all the tenants in place the region of Peel stepped in.

What I want to suggest is that the mobile home parks that have chronically depressed rents and are at the low end of the scale, that's the direction they're going. They're going to eventually either fold up or end up with a non-profit taking over and it's going to increase the rents dramatically.

To protect everyone, you should really consider some of the provisions that Mr Leach has in his letter to me dated April 7, a copy of which you have. If I can just read part of it here, I talked about a one-time charge of \$50 a month, which I suggested to Mr Leach would be probably appropriate to help us survive. I have my letter to him of January 9: "Annual statutory guideline increase: allowing a one-time option for landlords with monthly rents under \$300 a month to charge a \$50-per-month rental increase in lieu of the annual statutory guideline increase. Credit institutions will not generally approve capital loans to mobile home parks for infrastructure upgrades. If additional revenues are forthcoming, these capital loans will be more available and will allow a general upgrading of these self-contained communities."

His answer to me was, on page 2: "Allowing a one-time charge of \$50 for sites renting for less than \$300 in lieu of the annual guideline rent increase may, on the surface, appear to be a way to address the problem of depressed rents. However, it would be extremely difficult to apply such a provision universally to all parks throughout the province. While a monthly rent of \$300 may represent a depressed rent in some parks, it is not reasonable to apply this reasoning to all parks." He's quite right, it isn't reasonable, but it is affecting us. "Determining whether a rent is depressed or not is largely dependent upon the range of services and facilities provided to residents." Then he goes on to talk about some other matters.

In any event, we are really being hit hard by these rent controls which have been in effect for — as I recall, they came in in 1976. But then legally I found through one of the counsel who specialize in this particular matter that the mobile home parks weren't really under it until about the mid-1980s. There were some technical problems, but we're under it now, and I'm suggesting to this committee if you can recommend to the government that mobile home parks with rents which are chronically depressed, under \$300 a month, be exempt from rent controls.

We're not out to push people out into nursing homes. I think in the 26 years that I've been involved in this business I've had one tenant I evicted. There was a

domestic dispute and there was a split-up in the family and the individual just didn't pay his rent for six to eight to 10 months. So we got an order and we didn't even want to enforce it, but he continued not to pay his rent. I'm going back into the late 1970s. I think we finally moved the home out and we got some money and we paid everybody off, including him. Normally, we have maybe one or two tenants who sometimes drag their rent for three to six months if some personal thing comes up. As long as they tell us, we work something out with them. I don't think it's the position of any of the chronically depressed mobile home parks to evict tenants to bring someone else in.

What we're finding now is that our balance sheets are distorted. We're having a problem surviving downstream and some of us really don't feel we should carry on with this because of the financial constraints we have.

There is one other provision I'd just like to address briefly, that in the event there are capital improvements that have to be passed on for environmental upgrades, we suggest that this go right to the staff of the ministry rather than have a tribunal hearing, so long as we can show that the municipality has ordered us to bring in a water or sewer line or some such other thing and what our costs are. Our submission is that this should be sufficient and we don't think we should really have to spend three or six months at a tribunal hearing and not get the income in to pay our local improvement costs or whatever other costs we have to pay to the municipality.

If you have any questions, I'd be happy to answer them.

The Chair: Sir, we'd like to ask you some questions, but we've run out of the allotted time. So thank you for coming and we will review the documentation you have given to us.

1520

RENT CHECK CREDIT BUREAU

The Chair: The next delegation is the Rent Check Credit Bureau, Henry Verschuren. Good afternoon.

Mr Henry Verschuren: Good afternoon. Thank you for allowing me to be here today. I'm the vice-president of legal services of a credit bureau whose head office is in Toronto. We have offices in London and Ottawa as well. We are a credit bureau for landlords. My department specifically handles the legal side of that, applications before the Ontario Court (General Division) and before the Ministry of Housing and its rent control program.

I have passed out some written submissions, and what I'd like to do is to highlight the main points of the amendments we are suggesting. The main points start on page 3.

What we are looking at in the first subheading there, "Equality before the law," is that there are aspects of this bill that I think are good on their own, but need to be applied to both parties. For example, harassment: I can

understand why that clause is there, it needs to be there, but it is applicable against landlords and for tenants.

We have to dispel one major myth and that is that the majority of landlords in this province are the giant corporate landlords. I have checked with the Ministry of Housing's rent registry and they indicate that over 80% of landlords in this province have eight units or less. We're talking about small landlords, and I don't mean anything critical when I say "small" landlords but with respect to the number of units. These people — I can speak from experience in terms of some of the cases I have conducted before the courts — also need protection from harassment from tenants. I do not suggest to you that there should not be a harassment clause there, but I think it could be applied equally to both parties.

Also, there are other lesser clauses, if you will, in this bill that need to address the same thing. For example, there is one section where a tenant can count February as 30 days when giving notice to a landlord. I suggest to you that apply to both parties. It's simply equity.

I'm very concerned with respect to section 40. Section 40 talks about disposing of tenants' property. I think the intent here is that a tenant who's about to be terminated knows and understands that they have to move. Under the first couple of categories there — take a tenant who's abandoned the premises, for example — that's absolutely correct. However, clause 40(c), where a tenancy has been terminated by the tribunal, is a different matter.

From a practical standpoint there's a problem here. The tenant will get a notice from the sheriff, but that notice, although specific, is in actuality only approximate. In all cases the sheriff, if the sheriff needs to come, will not come on the day they've said. They will come a few days later, and that's the process. So the tenant's not really aware that the sheriff is going to come that day and lock them out. They could go to work or go out somewhere and come home and find not only their locks changed, but under section 40 the landlord now has the right to dispose of all their possessions.

I've made some suggestions to give the tenant some notice of that before possessions are disposed of under those particular circumstances. Again, equity is what we're looking at here.

I'm also concerned with respect to a change from the Landlord and Tenant Act that requires payments of rent into court. Under the Landlord and Tenant Act, subsection 113(6), if there is a dispute to an arrears-of-rent application — and this is important because this is the only circumstance this applies in — and that dispute alleges a breach of obligation, then the tenant must pay the arrears of rent in the court, or the tenant must file receipts for work they've done that the landlord should have done, or they file an affidavit indicating payments they've made.

Most people know about the provision about paying rent in the court and that's all they think of. But there are also a couple of other options there that are viable. Of course, the focus for this and the intent of that section is

to prevent frivolous disputes that would unnecessarily cause an action to proceed further than it should in the courts.

In Bill 96, what's happening is the wording is such that it allows an unspecified sum to be paid into court at the discretion of the tribunal member. They have discretion about whether or not money is going to get paid in and about how much is going to get paid in. A specified sum need not be rent. It could be. I can foresee motions being made by counsel for landlords that will say, "We want security for costs because we think this is going to take a while," and under the current wording that's an entirely acceptable motion. It's not acceptable under the current system under the Landlord and Tenant Act. As a matter of fact, there are case law decisions of the court that have said, "No way." But that could happen. So it may not be just rent that has to be paid in the court. It could be other sums for other things that get paid into the tribunal, I should say.

I'm also concerned about the tribunal getting overloaded and backlogged very quickly because of the number of disputes that I think would get filed if you don't have that clause in there. Keep in mind that this does not in any way negate the tenant's right for remedies. They can still file an application with respect to any alleged breach of obligation and these provisions wouldn't apply.

Before I go on to questions, I will deal with one other issue and that is the monetary jurisdiction of the tribunal. Subsection 182(2) sets out that, whether you be a landlord or a tenant, if your claim is higher than the monetary jurisdiction, your rights to the remainder are — "extinguished" is the word that's used. Why? What I'm suggesting to you is that the tribunal can certainly, at the very least, make a finding in terms of what's outstanding — I believe we're talking about \$10,000 — or sorry, the Small Claims Court limit, which is now \$6,000. In the past several months in court I've gotten judgements for \$72,000, I've gotten judgements for \$10,000, \$16,000, \$8,000. On all of these the landlord would have to extinguish their rights with respect to the balance outstanding.

There is no reason why under the current rent control system, for example, if there's a finding by a rent control officer that a landlord owes a tenant in excess of what they can order him to pay, they nevertheless record that and the tenant is free to take their remedies either in Small Claims Court or the General Division to recover that money. But this extinguishing of the monetary jurisdiction rights affects both landlords and tenants equally. There will be landlords who will lose money on that, but there will certainly be tenants who will be losing money on that as well.

The rest I have left for you to consider.

Mr Marchese: Your concern, I think from the outset, was that these are some provisions to protect tenants from harassment from landlords.

Mr Verschuren: Yes.

Mr Marchese: And your worry is that there are no provisions to protect landlords from harassment?

Mr Verschuren: Yes.

Mr Marchese: So you consider what's in this bill to be, by and large, protection for tenants possibly?

Mr Verschuren: No, I think it's more correct to say that I see aspects of the bill where there is tenant protection but no landlord protection. I wouldn't categorize the entire bill as protection only for tenants. I will say this though: There is a significant difference now with that bill. Fundamentally, what tenants want is protection from arbitrary rent increases. What you have now in the province is most landlords are charging less than the maximum rent they're allowed.

Under the current system, guideline increases apply to the maximum rent, so I could, if I were a landlord, increase the rent from what the tenant is paying to the maximum plus guideline. That could be a double-digit rent increase. Under the new system, under Bill 96, maximum rents are frozen and guideline increases for decontrolled units would be guideline on what the tenant is actually paying, so there is a significant amount of protection there for tenants. But overall I think, outside of the two issues I raised, it's pretty fairly balanced.

1530

Mr Marchese: In your experience, have you seen where the landlord might have more power than the tenant, by and large? Have you ever seen any abuses by a landlord who might exercise that power that he or she might have and the tenant might find himself or herself at the mercy of that power, or have you never seen such a case?

Mr Verschuren: I've seen cases with both. Keeping in mind who landlords are — most of them are not the big corporate landlords — you do see the balance of power on the side of the tenants because of the personality and what interplays there. I think it's correct to say that I've seen both scenarios where landlords have abused their power, but tenants also with landlords.

Mr Marchese: That has not been my experience. By and large, most of the people we listened to last year when we toured the province — and again, most tenants are very vulnerable, with those exceptions. We might have a number of individuals — it's hard to express by number — who could be abusive with any landlord, small or large, and it might be very difficult to deal with those people. There is that too. But by and large, our experience, and mine, as limited as it might be, is that they are at the mercy of landlords and what we have experienced here is the problem with large landlords.

We are not talking about some of the people you talked about, people who have four units or six units. The ones I've heard about in terms of the big problems are the ones who own 20 rental apartment buildings and so on — 25, 30, in that range, anything more than eight units. This is what I thought this bill was getting at because it doesn't deal with the smaller landlords who might be facing different kinds of problems.

My experience is that many tenants need protection and this bill, though it's called the Tenant Protection Act, offers them very little protection. So though you come here representing landlords, in my view, landlords have a lot of protections here and tenants have very few.

Mr Verschuren: I think if you compare the offence section of Bill 96 to the offence section of previous legislation, you'll see that it has probably tripled. Fines are greater. There are clauses such as the harassment clause that is in here that you've never seen in any other legislation in this province. There are a lot of protections built in here for tenants.

Mr Marchese: Other than the harassment section, which —

The Chair: Thank you. Mr Gilchrist.

Mr Gilchrist: Thank you, Mr Verschuren. Indeed you have made a number of other recommendations — they look like they total in the dozens afterwards — and we will certainly give them consideration.

We've heard from Mr Marchese and his opinion, but I appreciate that you've come before us here to paint a bit of a different picture.

Mr Marchese: Neutral.

Mr Gilchrist: He was very neutral and I think he should be applauded for the balanced approach he took to this. Having had the exposure you've had to both large and small landlords, is it fair to generalize them as the ogres that are being painted by many people in this, or is it more appropriate to say that this bill really does try to find that balance? Obviously, if we were sitting here and landlords came in and said they loved every section or tenants came in and said they loved every section, we would have written a bad, unbalanced law. Would you agree with that?

Mr Verschuren: I agree. I think as long as both parties are screaming at you, sir, you are doing your job.

Mr Gilchrist: Hopefully, we can minimize the screaming and it'll just become muttering. Seriously, you made a couple of comments about the tightening up of the offence sections. Earlier this afternoon we tried to elicit from another group their thoughts about whether fines have the same deterrent effect as OPRI's, for example. I don't know if you have put your mind to the specifics in the section of this bill, but if you have, I'd appreciate your comments on whether you think this is an effective way to make sure landlords continue to maintain proper health and safety standards.

Mr Verschuren: In my experience — let me divide up the answer here — smaller landlords don't understand what an OPRI is and generally don't increase their rent as often as larger landlords do anyway. But a fine they understand, and with larger landlords I find the same thing. What they are out to do is preserve their maximum rent because that's what the basis of their financing is. When they go to the bank to get loans to do capital work, the bank is looking at what the maximum rent is. So an OPRI affects rent increases but not maximum rent. They are far more worried about fines, especially the corporate

ones, because they are a lot larger than the small. I think the answer is yes to both, that fines are more effective, but for different reasons for both.

Mr Kwinter: I'd like to talk about something you didn't talk about in your verbal presentation but it is in your written presentation. That's the issue of pets. I really found it interesting that there are provisions where the criteria deal with inherent characteristics of the breed of the animal or past behaviour of animals of the same type, regardless of the specifics of a particular animal, which I find absolutely abhorrent. It's the worst form of discrimination, where a class or breed is discriminated against solely because they have a perception that that breed or class always does the same thing. Could you elaborate on that?

Mr Verschuren: Sure. The criteria in Bill 96 were lifted straight out of the Landlord and Tenant Act, pretty well verbatim, and the Liberal government of Mr Peterson put that into effect. The reason for that is because there was a court case, *Cassandra Towers v Ryll*. In there, a tenant was evicted simply because they had an old, blind, lame cat. They had a "no pets" provision in their lease and that was the basis for the eviction. The cat wasn't causing a problem to anyone.

The response to that was that the Liberal government amended the Landlord and Tenant Act to state that you can no longer evict someone relying on a "no pets" provision in the tenancy agreement. But they went on to say that if you're going to evict someone for substantial interference that's related to control or behaviour of an animal, then you must meet the following criteria: You must prove that that animal has caused a disturbance and then you must prove that that breed is inherently dangerous or that it causes an allergic reaction or that the past behaviour of other animals of that species has caused problems. So it's not enough to prove that this dog has bitten somebody; you also have to prove that other dogs have been a problem. If you prove that that dog has bitten someone, but not others, you don't get the eviction and you still have the problem remaining on hand. But that's where it came from historically: from the last Liberal government.

I agree with you it's abhorrent. I think what should be done, and what I'm suggesting in my written submissions for Bill 96, is that the test be if this animal is causing a problem, that's all there is to it; you don't need to get into all the rest of it. If this particular animal is causing a problem, then we treat that particular case.

The Chair: I think with pets we'll stop this, sir. Thank you very much.

1540

RICHARD FINK

The Chair: We'll move to our next delegation, Richard Fink.

Mr Richard Fink: If I could refer the committee to the handout I provided to the clerk, more particularly the

last page, which I've highlighted, perhaps I could just give the background to this case.

The tenants at the Balliol Apartments, which is a high-rise apartment unit at Yonge and Davisville, more particularly on Balliol near Mount Pleasant, containing some 400 units, was under a rent review application as well as a notice by the landlord that he would be replacing, among other items, all the kitchen counters and hardware, along with the windows. The tenants were of the view at the time that particularly in relation to the kitchen cabinets, which were in good and/or excellent condition, the repairs were a subterfuge for a rent increase under the then fairly liberal guidelines allowed.

For the first time in the British Empire, tenants actually brought an injunction not to have their apartments repaired but to prevent the repairs as an unwarranted and unwanted intrusion into their privacy. This injunction was upheld by three judges but overturned at the Court of Appeal on other grounds. The Court of Appeal, however, did give its consent to the clause which I highlighted, which I'll take a moment to read. This is Mr Justice Hollingworth of the Supreme Court on the third instance this matter came to court. He said, "When I say a man's home is his castle, that is an old English rule as old as Lord Hale, and it is an old Canadian rule, an old Canadian law that a man's apartment is his castle."

Recently, an elderly tenant's spouse came to me to say that the landlord was replacing the windows in this tenant's apartment. This elderly tenant has approximately three to six months to live and has chosen to spend his remaining days in his apartment castle rather than burdening the hospital system and burdening himself with an unfriendly environment. The landlord said: "I'm coming in to change the windows. You, Mr Elderly Tenant, and your wife should move all your furniture back, cover it all — we're not responsible for that — and after we're finished, you should clean up any dust and debris left over and move all your furniture back."

We told the landlord's lawyer that a man's home is his castle: "We have a right to refuse you entry. Why don't you take your windows, put them in storage for a few months, and when this tenant is deceased you can come back and replace the windows?"

Eventually a compromise was worked out. The compromise was that the tenant went by ambulance to a hotel for three days while all this was done, cleaning ladies were hired, and the tenant went by ambulance back to his apartment.

Under the new law, no such agreement could be worked out. A man's home is no longer his castle. The landlord would have full rights to come in. In this case, the tenant was able to have the landlord pay three quarters of the cost of the cleaning lady, the ambulance and the hotel. There is no such leverage now for tenants, or there will be no such allowance for tenants. Section 21 of the proposed law states that a landlord can come in to do repairs at his will on 24 hours' notice, plain and simple.

The precedent of the Balliol decision is completely lost. Tenants will have a situation where they can decide to leave during these repairs, that is, leave permanently. We've been involved in many cases where landlords did repair after repair over time as a subtle way of harassing tenants out of apartments. Tenants can leave. Tenants can perhaps apply, saying: "This amounts to a demolition. I want three months' rent."

A whole series of protections to live in your apartment in peace has really been derogated from, and I see no good purpose for it. One could understand allowing landlords to come in to do emergency repairs, I can understand having landlords come in to do repairs that are necessary, but to be able to come in and do repairs such as change the bathroom fixtures over to new bathroom fixtures, replace kitchen countertops, these types of repairs, to argue that tenants not be able to allow that window repairs could be held off, maybe instead of in the winter, in the summer, and various other matters related to this, seems to be a situation that the protection — Roy McMurtry agreed with me that such a case was worthwhile bringing, before he was a member of the judiciary, and the late Larry Grossman, commented this was an appropriate approach by tenants in those circumstances. This seems to be thrown out the door.

I would just like to make one further comment, which is, who lives in these apartments and will be forced to abandon them through such means as these types of repairs? In my experience, they are generally working people, and if there is upward pressure on the rent of working people, the entire province will suffer, as there will be upward pressure on wages.

Thank you for your patience. I invite you to read the rest of our submission.

Mr Kwinter: I was interested in the Balliol case. I'm just wondering if there's some room for some kind of compromise. I agree if it's a matter of kitchen counters or new bathroom fixtures, but in some of these older buildings it's quite possible that there's a very significant economic reason for putting in thermal pane windows, that engineers have come in and shown there's a lot of heat loss as a result of the old windows and that new windows will lessen the cost of operations and could benefit the tenant. Surely there's got to be some way of compromising between what is a frivolous or harassing upgrade to try to get the tenant to move out and those requirements that may not be necessary in the sense that the building is going to deteriorate but will be for the betterment of the building and for the economic benefit of everybody involved. Do you have any comments on that?

Mr Fink: The current law is "necessary." The Court of Appeal that heard this Balliol case in its final instance thought windows would qualify as necessary; Mr Justice Hollingworth did not. The word "necessary" is the balance that currently is in place regarding the Rent Control Act. It also deals with the issue that necessary repairs or structural repairs will capture a rent increase. The balance could be moved away from "necessary" to

some other word. The balance could be shifted more towards the landlord's benefit than the tenant's or vice versa. But the point is that the current legislation has no balance at all, and it's very disheartening.

Mr Marchese: Thank you, Mr Fink. It's good to see you again. You've heard Mr Gilchrist before talking about balance. It's a tough thing for these fellows to achieve. They're trying to protect tenants — that's why it's called the tenant protection package — and they're trying to help the landlords, because they're buddies. Having to restore that balance was important for them. Obviously, they think that what we had before with the rent control was leaning too much towards tenants and they had to fix that. The system is broken; that's what these folks say. You have a lot of experience in the field. Was the system broken that it needed Bill 96 to fix it?

Mr Fink: Tenants were not being harassed with unnecessary repairs to any noticeable extent up until today and haven't been since the rent review legislation was narrowed in terms of what qualified for repairs. The ability to change kitchen cabinets over is quite often available when the tenants leave their apartments, which does happen. When changing windows, of course it's much more convenient to do them all at once. I haven't heard of tenants resisting window replacement en masse. The current law in this regard seems to have been working fine, particularly after landlords have digested the Balliol decision. I don't see there being a current problem. I don't know of landlords beating down the door to be able to get into apartments to do these minor cosmetic repairs.

Mr Marchese: Can you comment on the order prohibiting rent increases? This government feels that too needs to be fixed. Tenants argue that it was an important tool to keep, because if there were work orders and the landlord wasn't fixing something he was required to do, OPRI was a good remedy for them. They're removing that. Do you have a comment?

Mr Fink: There are other provisions in the statute now that attempt to cause landlords to do the repairs required, including rent abatements and various other forms of penalties. I don't see the problem as being one where landlords will refrain from doing repairs, because I see the economy improving over time, with an upward pressure on rents, and one way to get the rents up will be to do repairs to beautify the apartments to obtain tenants willing to pay higher rents. As opposed to in the past, during the recession, when tenants were under pressure because the buildings weren't being repaired and there were minimum opportunities for rent increases, I actually see the opposite occurring, as happened in the late 1980s, which was that tons of repairs were being done en masse. I'm sure the construction industry will be happy about that. Indeed the buildings need to be repaired. If you look at any building in Toronto, you'll see spalling bricks all over it. They need to be repaired.

The point is that I see under this legislation a very small-l liberal gap for landlords to raise the rents quite

extensively to more than recapture the costs of those repairs.

The Chair: Thank you, sir.

1550

HIGH PARK TENANTS' ASSOCIATION BRETTON PLACE TENANTS' ASSOCIATION

The Chair: I understand that the next two delegations are not here yet, the Co-op Housing Federation of Canada and Sherkston Shores, and that the High Park Tenants' Association and the Bretton Place Tenants' Association is prepared to make their presentation. Thank you very much for coming.

Ms Janet Lisboa: Good afternoon, ladies and gentlemen. My name is Janet Lisboa. I am president of the High Park Tenants' Association. With me is Betty Postill, president of the Bretton Place Tenants' Association.

The High Park Tenants' Association and the Bretton Place Tenants' Association are pleased to address the standing committee on general government on Bill 96, the Tenant Protection Act. This is not only on behalf of our respective tenants, but for the good of all the tenants in Ontario, the vast majority of whom are good citizens who for many reasons are forced to rent their housing accommodation.

We feel that insufficient thought has been given to this legislation to achieve the fairness required for all involved, namely, landlords and tenants. This government claims it had input from both. Having scanned the list we find several landlords' associations and one tenants' umbrella group, together with several numbered companies, but not one tenants' association.

Our association is the largest, but we were never contacted for input. Our organization was mentioned in Hansard during the years of the Honourable Bill Davis, when Mr Yuri Shymko, our MPP at that time, stood up and spoke in the House on our behalf many times. Every MPP received correspondence from our association during the Honourable David Peterson's tenure in office. However, the current Minister of Housing did not see fit to consult with our organization. Even the fact that we are the largest such organization, as well as the most active group in this city, made no difference to Mr Leach and his committee.

We would be totally irresponsible if we did not stress how strongly we feel regarding the impact of this legislation on the vast majority of tenants, should it be passed with the flaws and unclear wording it currently embodies. Every year landlords, through government legislation, have been receiving automatic cumulative increases to cover any increases in maintenance, taxes and utilities. In view of the fact that this legislation pertains to the roof over our heads, we recommend that this legislation should be very specific and contain no grey areas. One such area deals with rent increases above the guideline for capital expenditures. Nowhere does it

specify that this charge will be dropped when the landlords have recovered their costs.

Many landlords in this city are incurring huge expenses by carrying out repairs that should have been done years ago when they were first noticed. Will these expenses, incurred since this legislation was proposed, be eligible for the above-the-guideline increase? This legislation, in our opinion, is perpetuating this unacceptable practice. If this government is serious about being fair to both landlords and tenants, they will encourage landlords to improve their equity and be proud of their properties and set up reserve funds so that they are not constrained when such repairs need to be done.

Tenants in high-rise buildings have been taxed at the highest rate. We have fought to change this unjust treatment for several years. We are glad to hear that the government is considering this change and phasing in increases and reductions gradually. Our understanding is that any rebates due to tax reductions must be legislated to be rebated to tenants or the landlords will be entitled to the rebates. We hope this government will put this legislation in place before or together with the housing legislation.

Every legislation enacted by any government has the potential to be a vast improvement or a total failure. It is entirely up to this government to implement fair legislation, thereby winning the support of your colleagues, respect from both landlords and tenants and the satisfaction that comes from a job well done. Thank you for listening.

The Chair: Thank you very much. Mr Kwinter?

Mr Kwinter: I thought there was going to be another presentation.

Ms Lisboa: No, just the one on both our behalfs.

Mr Kwinter: Okay. I'd like to hear your understanding of the rebates due to tax reductions and how you think that is going to work.

Ms Lisboa: The suggestion has been made several times, even to the Golden commission, that the rate of taxation should be equal for people in six-plex and below, as well as for high-rise buildings, on the grounds that the high-rise buildings have even less work done by the municipalities than homes do. But we are taxed at the highest rate of taxation. We are paying almost four times what individual homes are paying. We don't want this to be done right away, because we don't want anyone to suffer, but we have been suffering for so many years. If it's done gradually I think it would be acceptable for both tenants and the owners of the small dwellings.

The Chair: Thank you. It's Mrs Munro's turn.

Mrs Munro: No. Mr Marchese.

The Chair: I apologize. How could I forget Mr Marchese?

Mr Marchese: That's a good question.

Ms Lisboa, thank you for coming. I appreciate the presentation you made, and the last one, which I thought was very good as well.

This whole point of tax equity is a serious problem. The government says: "We're fixing it. The legislation allows the city of Toronto, or any other city, to bring about that equity." But when they do that, the cities are going to have a hard time. If you take that tax away from those who are now being taxed, unfair as it might be, the city's got a problem: It's got to take that money from somewhere else. With these guys offloading so many other responsibilities down to the cities, the cities are going to have a hell of a time trying to find money to keep the same services. If they do this as well, it means less money for the city. Where are they going to get it? They're happy to tell you, "Go to the city now and fight them," but you do see that that's going to be a problem for the cities in terms of finding a solution to that particular problem.

Ms Lisboa: Mr Marchese, I have a solution. The first solution is that the Ontario government take it over then.

Mr Marchese: And fix it.

Ms Lisboa: And fix it too, definitely. One does not go without the other.

Mr Marchese: Mr Gilchrist heard that.

We had a Mr Collins who came from the US and talked about a number of things this government is doing with this bill. He was the executive director of the rent control in New York in the 1970s, and then they scrapped it. As a result of the scrapping of the rent controls, this is what happened: A commission set up by Republican Governor Nelson Rockefeller recommended that vacancy decontrol be scrapped. That report said that decontrolled apartments saw rent increases of 52% over a three-year period, while landlord operating costs went up by just 8%. Complaints of landlord harassment doubled between 1970 and 1971 when vacancy decontrol was brought in. Capital improvements actually decreased. They argue it's going to increase. Then they made a few other comments.

Do you have similar fears yourself — because I do — about what is going to happen with this bill and how that's going to affect some of you living in those apartments?

1600

Ms Lisboa: I'm not going to talk about fears that might arise later. I want to talk about facts. During the last legislation we had no rent increases above the guideline, whereas before we were given 10%, 12%, 13.5%, 15% increases; and there was maintenance work being done during the legislation which is currently in place. Now, all of a sudden when this act is going to be put in place, tremendous repairs are being done: drywalling in every building, every hallway, this and that, new fridges, new stoves. Why? Because even though the legislation is not in place, I think they are going to apply for a higher-than-guideline increase and get it. But nowhere in this act have I read that once the landlord recovers that cost, it will be done away with; in other words, that it should be a temporary charge. Again, it was our presentation that brought about that change in the last legislation.

Where are tenants going to be? Surely this government realizes that not everyone makes the kind of money that you people do. There are single mothers who make less than \$30,000. I'm not crying for the people who make less, because there are always people who make less and always people who make more, but should the government legislate only on the grounds of those who make more? I don't agree with it. As for going back to the municipalities, to get back to your previous question, Mr Marchese, how can we go back to the municipalities? The municipalities don't legislate the rebates to be given back to tenants; it comes from Queen's Park. Therefore, the whole matter should be decided by Queen's Park.

Mr Gilchrist: I appreciate your comments. I'd like to follow Mr Marchese's line of questioning if I may, because we have a unique opportunity — it comes around once every three years — with the municipal election this fall. I'm very confident that this issue has been raised, and given the abundance of city of Toronto councillors clamouring to appear before us, presumably that means they have read the bill and the other attendant bills that we're passing these days and that they are quite aware of the fact that their game has been caught out, that the 6.2 times multiple that they're ripping off tenants in this city and the free ride that they're giving the home owners by comparison is something that now everybody is coming to know.

I guess I would ask you the question, what pressure will you be bringing to bear on the municipal candidates this fall to find some justice once and for all so that there is a fair treatment of property tax? Because the bidding will start at a \$100-a-month reduction. In my riding of Scarborough East, the average would drop over \$125 — this is for apartments that rent by and large, on average, for \$550 a month, so we're talking about over a 20% reduction in rent overnight. What pressure will you be putting on municipal candidates this fall to make sure that as of January 1 they take the tools that the province is giving them for the first time ever — these two didn't do it; we've done it — and use those tools to bring fairness back to tenants' property tax?

Ms Lisboa: Mr Gilchrist, let me ask you one question first before I go back to your question. Has Queen's Park legislated that those rebates be given back to tenants?

Mr Gilchrist: We've created a new class of taxation for apartments over six units. Municipalities always said before, "We couldn't do it because there wasn't a category to be able to give that fairness to," so instead they used the excuse, "We have to treat them like single-family homes." Obviously, when you take a 300-unit building, there is nowhere near the same per person impact on the community as 300 homes.

Ms Lisboa: That is fine, Mr Gilchrist, that they are legislating that these rebates be done, but who are the rebates going to go to? That is my question.

Mr Gilchrist: To the tenants.

Ms Lisboa: How?

Mr Gilchrist: All they have to do is apply, and the municipality will, by law, be required to send a notice to every tenant that the reduction has taken place. My question to you would be, if you get such a letter and on the letter it says, "Simply now forward this letter on to the tribunal," would you not do that?

Mr Marchese: It's that simple.

Mr Gilchrist: That's how simple. That's what the process will be. I'm a tenant. I know I will fill out that form and mail it on when I get that if Scarborough, soon to be the city of Toronto, sees fit to do that, but I guarantee you that every single tenant will know it's been done. I think that's not asking much of individual responsibility for them —

Ms Lisboa: Mr Gilchrist, why has it been set at 20%? Why hasn't it been set at 10% so there will be no hardship for the property owners?

Mr Gilchrist: Sorry. Why was what set at 20%?

Ms Lisboa: The rebates, so that it will be spread out over 10 years.

Mr Gilchrist: It's precisely up to municipalities to decide how they phase that in. They could do it in a lump sum. If in a particular municipality there aren't many apartment buildings, they could do it over —

Ms Lisboa: You just said that it was 20%.

Mr Gilchrist: I said in Scarborough East it would average over 20% if they went all the way to fairness at some point. I didn't say overnight. That would be up to the new city to decide. They could phase it in over up to eight years. We believe that in a community where there aren't many apartment buildings and there are a lot of homes, so not Metro Toronto, it would be quite easy for a municipality to digest that in the first year.

In Metro it would be a different impact. Obviously you're going to have to seek a balance, but I would have thought your goal would be that fairness and that you'd be pushing very hard this fall to make sure that every candidate who wants your vote is prepared to turn around and give you what is your due in terms of fair taxation.

Ms Lisboa: Mr Gilchrist, I've been pushing —

The Chair: Excuse me. It would be interesting to let the debate continue between you two, but the time has expired, unfortunately. We have to proceed with the next presentation.

Ms Lisboa: Can I just answer Mr Gilchrist?

The Chair: If it's very brief, yes.

Ms Lisboa: Mr Gilchrist, I have pushed hard for what we need and we want since 1972, so it's nothing new for me. In fact, your father always supported me also in doing it.

Mr Gilchrist: And we will as well, because you're fighting the good fight.

The Chair: Someone's going to have the last word here, and I'm going to have the last word. Thank you very much for coming.

Mr Marchese: Your father was a good guy, Steve.

Mr Gilchrist: It runs in the family.

CO-OPERATIVE HOUSING
FEDERATION OF CANADA,
ONTARIO REGION

The Chair: The next delegation is the Co-operative Housing Federation of Canada: Mr Bill Morris, manager of government affairs. Good afternoon, Mr Morris. Please proceed.

Mr Bill Morris: The Co-operative Housing Federation of Canada, Ontario region, represents the 130,000 people who live in non-profit cooperative housing in Ontario. Over 85% of housing cooperatives in Ontario choose to affiliate with CHFC and pay for the services we provide. This includes publications, property insurance, management advice, advocacy etc.

Cooperative tenure is a unique blend spanning both ownership and rental. Residents are eligible to become members of the cooperative corporation, which in turn owns the housing complex. To be a member, one must reside in the cooperative. Members are expected to contribute to the running of the cooperative. They form committees, elect boards of directors, and carry out various day-to-day functions. While some co-op residents choose to remain as tenants as defined under the Landlord and Tenant Act, the vast majority opt for the rights and responsibilities provided by being a cooperative member and are covered under the Co-operative Corporations Act. As such, cooperative members are not covered by most of the provisions of the Landlord and Tenant Act, the Rental Housing Protection Act and the Rent Control Act. The Co-operative Corporations Act mirrors provisions within the Landlord and Tenant Act for purposes of eviction.

The existing tenant laws — the Landlord and Tenant Act, the Rent Control Act, the Rental Housing Protection Act — we see as primarily vehicles and instruments of consumer protection. There's something about the changes in legislation that we think is very much wrong-headed: wrongheaded in the assumptions that it makes about tenants and about the rental housing market within Ontario.

Various governments over the years have put in place programs to ensure that Ontarians are housed well. All have sought to do the same thing, to overcome the gap between the cost of building housing and what consumers can afford. Most of Ontario's rental housing, be it privately owned, publicly owned or owned in the non-profit sector, exists because of these various government programs.

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The Tenant Protection Act appears to be based on a number of assumptions: first, that the private market, without government assistance, should be able to meet all the housing needs of Ontario residents; second, that tenants can and should pay more for their rental housing; third, that pushing up rents will attract investment in new rental housing.

We believe these assumptions are wrong. The private market has never met all the housing needs of Canadians. There is no jurisdiction in the world — and I'd like it if anyone here can please point one out — where the private sector meets all the housing needs of all the residents within its jurisdiction without government assistance.

On the second point, tenant incomes are inelastic. They're not limitless wells that can be dipped into. Tenants already pay more for their housing than do homeowners as a percentage of their income. Their incomes are significantly lower. The gap between owners' and tenants' incomes has been growing, and right now is almost at the 50% mark. That is, the average owner in Ontario makes almost twice as much money as the average tenant. Here in this community, in Toronto, 30% of renters have a household income below \$23,000 per year.

Tenants have much less money to spend on housing than they once did. One of the sheets I circulated to you that was done by the Ministry of Housing shows that since 1988, the percentage of renters paying more than 30% or more than 50% of their gross household income on rent has increased by approximately 50%. We're now at the point where 38% of renters pay more than 30% of their income; 15% pay more than 50% of their income. I think the statistics speak for themselves in terms of whether or not tenants should and can pay more.

The notion that pushing up rents will result in more investment: Pushing up rents only increases rents; it doesn't attract new investment. There are very good reasons for that. Few landlords are builders. Most landlords are simply investors.

The second reason is that we all produce the same product. Until recently, we produced most of the rental housing in the Ontario marketplace within the non-profit and cooperative sectors. We know that at the high end of that market you have people who are on the edge of home ownership. The competition in the rental housing marketplace is and always has been the entry-level home, not other forms of rental housing. People choose to be owners; they do not choose to be tenants. They are tenants by circumstance in the vast majority of cases, as dictated by their incomes.

What that means is that if you and I got together and decided that we were going to produce housing, we could produce housing at the same cost as it would cost another group of people in this room to produce ownership housing. My question would be, why would we produce rental housing, not ownership housing? It costs the same amount of money, yet the potential consumers of the rental housing are all relatively poor; the potential consumers of the ownership housing can afford my product. What would possibly motivate me to produce rental housing in a marketplace where the consumer cannot afford the product?

Finally, I want to point out something that I don't know has been pointed out in the past; I haven't been

attending these. I want to point out that tenants and taxpayers have a vested interest in ensuring that rental housing in this province remains affordable. We do for a number of reasons, not the least of which is that almost 30% of renter households receive social assistance. Higher rents mean higher taxes, more people qualifying for social assistance, higher social assistance rates. In fact, the social assistance system is Ontario's biggest housing program. It is the one program that is universal. It's the one program that's accessible to everyone of low income who is a resident of Ontario and qualifies for social assistance. That is where we spend our housing dollars. Higher rent increases, as I say, mean higher taxes.

Passage of this act, it strikes me, is designed to do only one thing: to push up rents and to reduce the protections that tenants have. The name, as I think many people have commented on before, is a serious misnomer.

The Co-operative Housing Federation of Canada believes it's time for the government of Ontario to wake up to the housing needs of Ontarians that have been ignored since this government came to office. It's time to get down to the difficult task of attempting to meet those needs. It's time to move away from the do-nothing attitude of this government with respect to housing, with respect to the actual provision of real programs, real dollars, real spending, real programs that make a difference in people's lives. It's time to get on with the job and responsibility that you as legislators have to ensure that the housing needs of Canadians are met.

This legislation does nothing to achieve that. As I say, the minister came here and suggested that there were developers lined up to build tens of thousands of rental housing units in this province. All that we have to do is put in place the right framework. The right framework is not legislative. If we want to make people significantly richer, that will do it, but unless we put a significant amount of money in people's pockets, we haven't done anything to ensure that they're going to be well housed.

I'm afraid that this legislation is likely to result in rents that are higher and it's likely to result in a loss of rental housing. In communities across this province investors are lining up. One only needs to look at the way in which investors are lining up to pick off the choicest properties for conversion to purposes other than residential rental. We're going to see a loss of housing in a way that we saw before the Rental Housing Protection Act was put in place. Far from spurring investment, creating more rental housing, this act will do exactly the opposite, because it does nothing to address the basic needs of the marketplace, and that is the gap between the cost of doing business, producing the product, and what renters can afford.

Mr Marchese: Thank you Mr Morris. Mr Lyall from the Metropolitan Toronto Apartment Builders Association recognizes that there's a gap but he says this is part of a continuum and this is really important to bring

the private sector back. This might be minor in the scheme of things, I'm not sure he used those words, but it's part of that important piece and all the other pieces have to fall into place. To a question that Mrs Munro asked, what about the building of affordable housing, he didn't say we can't do it exactly, but the essence was that they really won't build or can't build affordable housing because there's no money in it.

Mr Morris: Correct.

Mr Marchese: But he did say, though, they would build at the higher end and that's good, he argued, because there will be — he didn't use the word "trickledown," but people will then move out of the other apartments and move into these luxury apartments or much better apartments and that would leave a lot of empty apartments for other people to come in.

Mr Morris: It's a good theory. I wish it worked. It doesn't work, it doesn't happen. Renters remain where they're renting generally until they can afford home ownership. There isn't a significant amount of movement within the rental marketplace between product which is old and product which is new. Location governs part of the reason for people's moves, but for the most part tenants are tenants because of economic circumstance, not because they're getting some wonderful deal in the marketplace and if we simply offer them a better product at twice the price, they're going to move. That's just irrational.

Mr Marchese: In the past they built because of a number of subsidies or programs that were designed as giveaways to the private sector. Mr Lampert says you could do it if you reduce development charges, equalize property taxes, you heard about that, halve the GST, streamline regulations on building, halve the CMHC mortgage, eliminate the provincial capital tax.

Mr Morris: What's wrong with doing all that?

Mr Marchese: Yes, what's wrong with doing that?

Mr Morris: There's nothing wrong with doing that. He's getting at the right end of the problem. You're getting at reducing the gap between the cost of production and what consumers can afford. It's interesting, though, it's all being done at the cost end that the builder has to bear.

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Again what's being said there is, "Let's provide subsidies." If we're halving the GST, that sounds like a subsidy. If we're getting rid of development charges that otherwise would have to be paid, we're talking about a subsidy. It's interesting that we're talking about subsidies that for the most part are municipal subsidies. We're not talking about provincial subsidies in most of those cases. Why don't we get rid of the employer health tax for constructors? I don't know, but I don't think that these relatively inefficient ways of throwing money at the problem have worked in the past. That's one of the reasons we created targeted programs, programs that ensured the money went to where it was designed to go. We had MURBs, we had all kinds of tax-incentive

programs in the past, and the consensus was that they were inefficient, that given the amount of money that we as taxpayers were pumping into them, we weren't getting enough out the other end.

Mr Klees: You make a very important point, and I certainly agree with you, that in the past governments have thrown money at the problem and the evidence is very clear to us that throwing money at a problem doesn't solve it; in fact it tends to create even more problems for the taxpayers whose money it is.

Part of the problem, over the last couple of years I've had a number of people in my constituency office who are in the co-op business, managers of co-ops, and I've had a number of complaints or concerns expressed that within their co-op they have a number of people who shouldn't be there, who are being subsidized by taxpayers and who are occupying units that rightfully should be occupied by people who need the subsidy.

Mr Morris: "Rightfully" meaning what? That it's against the program guideline? I'm missing your point here.

Mr Klees: Obviously you know a lot about this issue of co-ops and subsidized housing, and I think you're suggesting that perhaps the government should continue in the direction that the previous government went, and that is to put more money into those non-profit type of programs. Are you telling me that the concerns that have been expressed to me — and these are people who have a responsibility for managing cooperative units — do not exist, that people who are occupying subsidized units are all in fact validly there?

Mr Morris: Mr Klees, you seem to be bringing to the discussion essentially the rules of public housing into the non-profit housing system. Let me just clear up the misconceptions that you seem to be labouring under.

Public housing is designed to provide housing to the lowest-income people in our community. We've traditionally used a point-rating system to ensure that takes place. Non-profit housing programs that were designed in the mid-1970s came out of a royal commission, a royal commission that found we no longer wanted to spend our tax dollars on housing just the poor in public housing. I didn't author this royal commission, but the royal commission decided that we no longer wanted to direct all our housing dollars narrowly at housing the poor in what were considered ghettos.

It decided instead that what we would do is go after programs that had two focuses. One was to ensure that supply was there — those are the programs that we've had throughout the last five decades — and two, we would also include rent-supplement dollars for low-income people so that they could access that housing. The non-profit programs were designed on the same basis as the private sector programs at the time. They were designed to produce rental housing for anybody in the rental market who wanted to move into it, and then there are rent supplements for some low-income people to get in.

What you seem to be suggesting is that you would like to go back to a time where we had a system whereby only the neediest were housed in subsidized units and that we go back to 100% needy places that essentially the royal commission decided we should not follow. If that's the point you're trying to make, then it's a very different point. Then what you should be saying is that you wish that we were building public housing.

Mr Klees: Actually I thought we were in agreement, because what I am saying is that where we should be targeting the money is where it's needed most, and that's with those people who cannot afford to pay for units on the income that they have.

Mr Morris: I'm disagreeing with you. I'm saying there are two different things that you're getting at here. One, you're getting at supply — you're either going to produce rental housing in the marketplace; that's the one objective the program had — and two, you're going to get at income support dollars. If you're saying they should all be income support dollars, then what I'm saying to you is, how are you going to produce the housing?

Mr Klees: And that is exactly the point, because the previous government failed on the supply side. If their program had worked, we wouldn't have the supply problem that we have today.

Mr Marchese: Oh, Frank, please.

Mr Klees: So what we're suggesting is that what we need to do —

The Chair: Put your question.

Mr Klees: — is establish a mechanism that will generate supply, create a framework where the private sector is encouraged to generate additional units —

Mr Marchese: But they are not going to do it.

Mr Klees: — and then, where the subsidy has to be focused, we should be addressing those to the individual needs. I think that's the objective of this piece of legislation.

Mr Morris: What is the model, Mr Klees? I didn't get asked the question, I got given a statement.

The Chair: I thought for a minute you were both agreeing, but you're not, so we're going to move to Mr Kwinter.

Mr Morris: We're definitely not agreeing.

The Chair: We're going to move to Mr Kwinter, please. We've run out of time.

Mr Kwinter: I think it's quite evident in several of the deputations that we've heard from people in the industry that it's virtually impossible for the industry, given all of the parameters that are out there, to build so-called affordable rental accommodation.

Mr Morris: Yes.

Mr Kwinter: It has nothing to do with people who are on public assistance or anything else. The average person cannot afford to pay for a building that is going to be built today. It just doesn't work.

Mr Morris: Right.

Mr Kwinter: What people are going to find — and no one has mentioned this. At the top end there's

probably a good market for rental accommodation. Over the span of years that I've lived in Toronto at one time buying a house was an extremely good investment. That is no longer the case. There are better ways of investing your money than living in a house, other than the benefits of having home ownership, but from a strictly financial point of view, the appreciation isn't there. You're finding more and more seniors are deciding to sell their houses and to rent. They take the investment, they take the capital, they live off that and they pay their rent. They have no headaches. They don't miss the appreciation and they're not getting it anyway. So there probably is a market for that segment.

The question that I ask you is — and I don't know whether we've come up with a solution — how do we address the others?

Mr Morris: You're very right. There are a number of people in the industry who are actively trying to service that market, because it's a different market. You can appreciate that the people who are coming with equity, who may already be homeowners and are simply looking to divest themselves of a millstone because it's now too much for them, have choices.

Mr Kwinter: Particularly with the tax increases that are coming.

Mr Morris: Sure. So there are plenty of developers out there who are working on life-lease projects and all kinds of other innovative ways to service the market of people who are coming with equity. The tricky part and the much more difficult part is, what do you do with the young family? What do you do with the people who don't come with equity? All they're coming with is the first and last month that they can scrape together. That's all they can put together. That's the harder nut to crack. Essentially what you need is forms of housing that don't require that large equity investment initially and you need rental housing.

When you look cross-jurisdictionally, everywhere in the world, be it Israel, the United States, England, anywhere, what you have is governments actively involved in the marketplace, providing people with the kind of income assistance they need to ensure that, one, they can purchase the product in the marketplace or, two, acting directly, as governments have in Canada for the last 50 years, to ensure that supply is available in the marketplace and people can purchase that with the incomes they have. One way or the other: either affect the supply side by providing subsidy there or affect the income side by providing subsidy there, but you've got to bridge that gap or you're not in the game.

The Chair: Mr Morris, we've come to the end of your time. Thank you for coming.

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SHERKSTON SHORES

The Chair: The next delegation is Sherkston Shores, Ian Wilbraham, vice-president, North American operations.

Mr Ian Wilbraham: My name is Ian Wilbraham. I am the divisional director responsible for Sherkston Shores, which is a resort campground in Port Colborne, Ontario.

Sherkston Shores would like to thank the members of the standing committee on general government, rent control, for providing us with this opportunity to address you today. We applaud the government's efforts to streamline the current legislation governing landlords and tenants.

Just to give you a little background into our organization and our industry, 12 months ago, prior to the first and second readings of Bill 96, we had the opportunity to address your committee to stress the importance of campgrounds being excluded from this piece of legislation.

There are approximately 1,200 privately owned campgrounds in the province, with a total of some 110,000 campsites, of which two thirds are occupied seasonally, May 1 to October 31. In many cases, the seasonal trailer remains on the campsite during the winter months for storage purposes but is only physically occupied during the summer months.

One such campground is Sherkston Shores, with approximately 1,100 fully serviced campsites, plus up to 600 partially serviced and non-serviced sites. Sherkston Shores is located in Port Colborne and is privately owned by an experienced campground operator who also operates campgrounds in the United Kingdom, as well as one in Sarasota, Florida. Accommodation at Sherkston Shores is in park model trailers, travel trailers and tents. Sherkston Shores provides affordable camping vacations to families from Ontario and western New York. Sherkston Shores does not offer sites for mobile homes, and in fact mobile homes are specifically excluded from the site by the local bylaws.

The campground industry is a large, thriving business in Ontario, employing some 8,000 people. Sherkston Shores provides employment opportunities in the Port Colborne area for approximately 125 direct employees, and 45 full-time and 30 part-time people working either in the park concessions or for subcontractors on the park.

The Sherkston Shores site was acquired by the current owners in 1988 for \$8.5 million, and the total investment so far amounts to in excess of \$12 million. Annually, \$2.5 million is spent locally on provisions and materials for the site. This investment has provided the creation of a main street, four tennis courts, a basketball court, a roller hockey court, a swimming pool, a mini-golf course, a baseball diamond, plus park model trailer and RV sites and extensive landscaping.

The concern of Sherkston Shores and similar private campground operators in the province is the ambiguity and lack of clear definitions in the existing legislation which leave the legislation open to interpretation. We do note, however, from the current draft of Bill 96 that the exemption section has already been amended to specifically exclude from the act accommodation intended to be provided to the travelling or vacationing public in a campground, trailer park or vacation home. We also understand from officials at the Ministry of Housing that further language is proposed to be included within the exemption section to specifically exempt accommodation occupied for a seasonal or temporary period. We applaud the government's efforts to include these changes in the draft legislation, which we strongly feel will remove much of the ambiguity currently existing within the current legislation.

Additionally, however, we ask that further consideration be given to the definitions within the act of "mobile home" and "mobile home park." Currently Sherkston Shores, together with other campground operators, feels that these draft definitions still leave the proposed legislation open to interpretation, and we ask that these two areas be further reviewed. Specifically, I mention to you that Sherkston Shores, together with most campgrounds in Ontario, is only operated on a seasonal basis for approximately six months of the year, and during the winter months water service is shut down throughout the park, making the trailers unusable as a permanent residence.

Our recommendation: It is the request of Sherkston Shores that the committee recommend that the definitions of "mobile home" and "mobile home park" be reconsidered in an effort to eliminate ambiguities. We would also like to draw attention to the fact that these requests reflect what is actually done by a multitude of city bylaws across the province of Ontario.

Over the years, confusion has arisen within our industry regarding the existing legislation. We believe the government is acting with a high degree of responsibility in its efforts to streamline the statutes so as to provide adequate protection for permanent residential tenants. We much appreciate this opportunity to place our concerns before you and would be pleased to provide any additional information you might need pertaining to the campground industry.

I'd just like to add that, as well as this, we'd be happy to provide any help that we could give in the technical drafting of any of this legislation or in any suggestions to definitions.

Mr Gilchrist: I'd just like to thank you, Mr Wilbraham, for coming forward. It is our intention to further clarify the act. Your requests and those of similar operators certainly are reasonable ones. It is only appropriate that we make a distinction between year-round residences and something that is merely catering to the vacationing public, and I really appreciate your taking the time to point out the need for further clarification.

Mr Kwinter: I just wanted to say the same thing. I have had trouble all along listening to these people who are talking about mobile home sites when these home sites are not mobile at all, whereas recreational vehicles are truly mobile homes. They move around. I would have no trouble with that at all. There's another whole area that hasn't been touched upon but which lends itself to the same kind of problem and that's people who live on their boats on a year-round basis. How do you deal with them? Certainly I have no problem with a clear definition of what is a mobile home, what constitutes a campground, what constitutes a travel location or whatever it is, but I think there really has to be a clearer definition so there isn't that ambiguity.

Mr Marchese: I recall your last submission. We were all in agreement and tried to solve it almost instantly while he was speaking. I think all parties at the time were supportive of that, and you're raising some similar problems again with respect to definition. The parliamentary assistant seems disposed to looking at that, and we don't have any problems with that either.

Mr Wilbraham: That's helpful. Thank you. The reason for coming back again and the point I was trying to make is, as I said, the exemptions section has already been quite substantially changed and it just seems to us possibly there's still some ambiguity in the definitions. If those can be reviewed, I think everything is fine.

Mr Marchese: If they haven't called you, they will, I guess, to help with the technical language.

The Chair: Thank you for coming.

We're a little ahead of schedule. The City of Toronto Committee on the Status of Women? Rob Herman? Aslam Ahmed? Then we will recess for 15 minutes.

The committee recessed from 1639 to 1701.

CITY OF TORONTO COMMITTEE ON THE STATUS OF WOMEN

The Chair: Ladies and gentlemen, perhaps we could resume the proceedings this afternoon. For the City of Toronto Committee on the Status of Women there are two people before us: Catherine Leitch and Janet Forbes. Good afternoon.

Ms Catherine Leitch: My name is Catherine Leitch. I am program coordinator with the Committee on the Status of Women with the city of Toronto. With me is Janet Forbes, who is a member of that committee.

The City of Toronto Committee on the Status of Women is a citizen committee established to maintain, improve and advocate for an equitable quality of life for women living in the city of Toronto. The committee works cooperatively with city agencies and other levels of government to advocate and develop policies to achieve access and equality for women working and living in Toronto. The following presentation is a representation of the views of that committee.

The Committee on the Status of Women believes Bill 96, An Act to Consolidate and Revise the Law with

respect to Residential Tenancies, referred to as the Tenant Protection Act, is regressive legislation. This legislation will not protect tenants, and instead will cause serious harm to the lives of people across this province, in particular many of our most disadvantaged, such as women, children, people with disabilities, new immigrants and seniors. This legislation will have a devastating impact on the lives of these people who are simply trying to make ends meet on a day-to-day basis.

Much of the legislation that has been passed in the last two years, such as changes to the Employment Standards Act and the reduction in welfare benefits, has had a negative effect on the lives of women and children in this province. The Committee on the Status of Women has many concerns regarding this legislation and we will address each of these concerns individually, making particular note of how the proposed law impacts women. We will also be referring to and supporting the positions of other deputants who have come before you to denounce Bill 96.

(1) The first is vacancy decontrol. The committee believes that the removal of rent controls on units will result in the virtual elimination of affordable housing within a very short period of time. While tenants presently occupying a unit are protected under rent controls, tenants who move will no longer be protected.

People move for many reasons, and only one of these reasons is choice. Women, those with and without children, are often compelled to move due to abuse from former partners, as well as abuse from landlords and neighbours. Are we to say now that women will not be free to flee this abuse simply because of the likelihood that they will not be able to afford the rent in another building? Also, what of the impact on individuals who have worked and scrimped to finally get to a point where they will be able to move into better circumstances, only to find that the bar has been raised on them? Is the government saying that these individuals should never be able to improve their circumstances?

To assume that landlords will only raise rents according to what the market will bear does not take into account that presently there is a vacancy rate of 1% in the city of Toronto. Given this low vacancy rate, you would be naïve to believe that landlords would not take advantage of the circumstance and raise their rents, in all probability well beyond anyone's notion of affordability.

When the average rent for a two-bedroom apartment in the city of Toronto is already \$986 — and this does not take into account that the ones that are presently vacant are likely to be much higher than that — how can we trust that this amount will not increase exponentially? This unfortunately will be what the market will bear. People have no choice. Either they sacrifice things they should not have to sacrifice, such as food and transportation, or they are forced out on to the streets and into shelters. According to the August 2 edition of the Toronto Star, there are presently 3,500 people, including 600 families, living in Metro homeless shelters because

they cannot find housing they can afford. It will only be when there are many more apartments available that one will be able to say that market forces are truly working as they should.

Given that the industry — in this case I mean developers — spokespeople have already publicly indicated that the removal of rent controls from units will not likely result in a substantial increase in new housing units, then who is this being done for? If not for the developers and certainly not for the tenants, then who?

(2) The second point is the removal of rent freezes on outstanding work orders. Tenants have had the protection of the municipal government when a landlord has not complied with property standards when the municipality issues and enforces orders prohibiting a rent increase. Bill 96 proposes to eliminate these rent freezes, leaving tenants and municipalities with no reasonable way in which to enforce these work orders. It is clear from the condition of many apartments that routine maintenance is not happening. Who will protect tenants against the more serious issues of maintenance which affect the safety and security of tenants, such as elevators, locks, heating, water?

According to the presentation by the city of Toronto to this committee, the province issued 5,289 OPRIs between 1992 and 1996. Of those, approximately 72% were withdrawn before the rent freeze took effect because the landlord complied with the work order. Why change what clearly works? Are tenants always going to have to go to the courts or adjudicative tribunals for maintenance issues to be dealt with? Those tenants who are most vulnerable to harassment by landlords, such as women with children, are unlikely to access this process either because of lack of money or because they do not wish to face possible harassment from their landlords just because they wish to have repair work on their buildings or units carried out. When the province and the municipality were enforcing the OPRIs the tenant was supported. Now the tenants are on their own.

(3) Removal of the Rental Housing Protection Act: Removal of the RHPA will almost assuredly result in a decrease in affordable housing in the city of Toronto. The city of Toronto has had the ability to regulate the conversion of the housing stock to other uses for over 10 years, which has resulted in the city keeping a large amount of affordable housing that would otherwise have been lost to conversion and to other uses such as luxury renovations. In the city of Toronto it is already evident, from the number of buildings presently being converted from office buildings into condominiums, that developers are not interested in satisfying the need for affordable housing despite the desperate need for such housing.

(4) The administration of Bill 96: Under Bill 96, all issues currently decided by the courts and civil service administrative adjudication will be decided by an administrative tribunal. There are serious concerns, because the members of this tribunal will be appointed by an order in council, that the current Ontario cabinet will

not necessarily ensure that the members are reflective of the interests of all individuals or that they will have any experience or knowledge of landlord and tenant rental housing issues. Members of this tribunal must be selected through an open, public, competitive process to ensure that individuals are selected on the basis of their qualifications only.

The committee objects to the provision that landlords and tenants must now pay a fee to file complaints. It is extremely important to the issue of equity and justice for all that this fee be eliminated.

The ability of this tribunal to award costs also seriously concerns the committee. If honourable tenants believe that costs could be awarded to the landlord, the likely result is to be a chilling effect in the filing of complaints with the tribunal. Tenants should not have to fear monetary retribution should they feel that they have a complaint. The tribunal should not be able to award costs.

(5) Human rights: Finally, the committee on the status of women opposes the provision contained in section 200 which would propose to amend the Human Rights Code to allow landlords to use income criteria as a basis on which to determine eligibility for a rental unit.

In its letter to Premier Harris on June 13, 1997, the committee stated that it believes the Human Rights Code to be quasi-constitutional, and therefore the proposal to amend the code through this backdoor approach is not respectful. The impact of this provision will seriously harm the most disadvantaged of tenants, in particular women with children, both those who are presently in receipt of social assistance and the working poor.

1710

The committee does not object to the necessity of landlords ensuring that they have tenants who will pay their rents but feels that landlords already have that ability through the use of reference checks, rental and credit histories. Many landlords presently find opportunities to deny certain individuals tenancy. This provision will surely open the floodgates to discrimination.

The chief commissioner of the Human Rights Commission has stated that there is no business case for tenant selection based on income or the source of that income. To say that those with low incomes or those on public assistance are more likely to default on their rents is to buy in to the myth and hurtful stereotype that people living in poverty are unreliable and untrustworthy. There is no reliable evidence that people with low incomes are more likely to default on their rents than those with much higher incomes.

In fact, if one is to use common sense — and I have my own definition of common sense here — it can be argued that people with low incomes would be likely to pay their rents because they can least afford to lose their housing. They have limited options to pay court, moving, utility hook-up and first and last months' rent costs again and again. Women, especially those who have children,

are not going to risk their children's security by not doing everything possible to ensure payment of rent.

Therefore, the committee on the status of women concurs with commissioner Norton that the words "income information" should be removed from sections 36 and 200 of Bill 96 and that the regulations for Bill 96 ensure that the use of credit checks and rental histories be limited so that those individuals whose records are non-existent or inaccessible are not discriminated against.

In closing, the committee on the status of women must state its strong opposition to many of the provisions in Bill 96 and recommends that this bill be withdrawn so the tenants in this province can once again be assured of an equal opportunity to housing which is safe, affordable and secure.

Mr Kwinter: Thanks for your presentation. I agree with everything you've said. I was taken by a couple of your observations because I've noticed the same thing. When you said the office buildings being converted to condos are not being converted to rental or affordable housing, we just have to look down the street. The building I used to occupy when I was the Minister of Consumer and Commercial Relations has been converted. The building across the street, that used to be occupied by the Minister of Mines and Northern Development, I think it was, has been converted. I was driving along Richmond the other day and I saw another building being converted to condos. All these buildings are being converted to condos.

I agree that the provisions in Bill 96 are going to make it a lot easier for developers to convert those buildings. We're going to find the same old problem: There may be accommodation but none that anyone can afford. I shouldn't say that "anyone" can afford, but the vast majority of people we're trying to help will not be able to afford it. I assume this is what you're referring to.

Ms Leitch: Precisely. My point is that if you cannot afford the rents currently out there, you have no other options. But if you can afford the rents presently out there, you probably can also afford to buy. If the rent is \$1,500, the likelihood is that you are probably in a position to buy. The fact is that the only people who now have to rent are very low-income individuals. An \$89,000 condo is simply out of the reach of these individuals because they don't have the down payment, for starters.

Mr Kwinter: Another significant point you made is that it's raising the bar. For people who will be forced out of their apartment, for whatever reason — it may be economic, it may be social, it may be family circumstance — once they're out and want to get back into comparable accommodation, that comparable accommodation will be comparable possibly in status but not in price because of the provisions in this bill.

Ms Leitch: Precisely.

Mr Marchese: Thank you both for coming. What we have seen, at least what I've seen last year and at the moment, are two camps of people: We have landlords, pro-development types and the Conservative members of

this government on the one side saying, "We have a balanced bill, Bill 96"; then we have everybody else coming here essentially saying much what you're saying, with some emphasis here and there on the other side.

Is it possible that all of you could be so wrong and that enlightenment comes only from these other groups? What do you think? What's going on?

Ms Janet Forbes: There are obviously two groups of people representing their own particular interests. In the past, developers have said time and time again that they do not believe it is their responsibility to house the underclasses, that that's a government responsibility. But we now see on both the federal and the provincial levels an entire unwillingness to deal with this group of people.

I am not in some ways objecting to developers going out and developing properties and getting what they can get for them, but that's one issue and housing those people who can't afford to pay that level of housing costs is another issue. Unfortunately, you're lumping everybody into the same group here, and it's not the same group.

Mr Marchese: Yes. Unfortunately, the private sector says that what we as NDPers have done in the past is wrong, that we've just wasted a whole lot of money to house people who simply have nowhere else to go. They're saying we should just leave it to the private sector and help them out so they can build.

Ms Forbes: There's been a whole tradition in this province of the government helping out private sector developers in providing housing for lower-income families. A lot of those programs have involved such things as mortgages and the recent programs they've had, where they've subsidized landlords to renovate rental apartments to bring them up to cost. There's a whole history of programs like that. The government in the past has seen it as a responsibility to house those people who can't otherwise afford adequate accommodation.

Mr Marchese: No longer the case. Vacancy decontrol is one of the worst fears I have about the bill; there's so much you've talked about. There is no limit in terms of what landlords can charge. Do you think there should be some cap on that? When you move, with vacancy decontrol, they can charge what they like. There's no ceiling in that regard. Do you think somehow the government should say to landlords, "You can only charge so much if you're going to do this"?

Ms Forbes: That would seem the responsible position. I understand that this government doesn't want to be involved in regulation, and that for every way you think of a regulation there's probably another way people think of to get around it. But I think it has to do with a form of social justice, that there is some form of regulation in place that ensures that people will be adequately housed. Housing is a right. It's not a privilege, not a frill.

Mr Gilchrist: Rosario, you were doing so well until your final point, when I think you misled these presenters — forgive me — may have created the wrong impression

by suggesting that no cap for new construction is a new thing. In fact, it's a continuation of your act. There never has been a control, for the first five years of any building, since you folks brought about your changes.

We had a presentation earlier this afternoon from Mr Fink, who has been before us a number of times on legislation relating to landlord and tenant issues and a number of other issues as well. Mr Fink's considered opinion is that the previous landlord and tenant legislation, as he's dealt with in his own newsletter, resulted in rent increases of up to 100% a year. Is it really your position here today that the status quo is perfect and we shouldn't be looking at finding better balance between, as you've correctly pointed out, the very different needs of landlords and tenants, that for the past five or 10 years it's been nirvana in housing in this province?

Ms Forbes: I think it's been a lot more equitable than a lot of people would like the populace to believe. I think the Landlord and Tenant Act has been a really interesting act. For one thing, it was an act that everybody could read, and it was accessible, unlike a lot of other government acts. It was in place for a long time and people understood the regulations.

If somebody goes into business, if a landlord becomes a developer and goes into the rental business, it behoves him to understand the business he's getting into in the first place and understand those constraints. I don't necessarily think it's entirely fair of landlords to say, "It's unfair to us," when they got into the business for the most part — I mean, the Landlord and Tenant Act has been around for a long, long time.

1720

Mr Gilchrist: Is it similarly fair to suggest that tenants know too that there's such a thing as inflation and that every homeowner who faces higher costs year after year after year — that those similar increases would only be appropriate in any other form of housing?

Ms Forbes: Inflation has been dealt with to some extent in the mandated increases. Inflation really hasn't been an issue over the last few years.

Mr Gilchrist: What about capital improvements?

The Chair: Mr Gilchrist, let her finish.

Mr Gilchrist: I was finished that point. What about capital improvements? When you own a home and the furnace breaks, you have to pay for it. Where did we get this impression that if you live in an apartment and the elevator breaks, somehow, even though it's the tenants who use that elevator, there's no consequence to the cost of living in that building?

Ms Forbes: There are a number of ways of looking at that. First of all, there have been programs, as I said, previously available for landlords in this province to bring their buildings up to code, and those programs have been highly subsidized by the province over a number of years. I don't think the public realizes that the landlords have had that advantage.

Secondly, there are a lot of us who live in rental property who are very much aware of the fact that

landlords are under some constraint. Personally, the apartment building I live in is well maintained but it's certainly not luxurious. It's not up to code. I know that. I do not expect, other than it being maintained reasonably clean and safe, that a lot of luxury be provided. I think most tenants are exceptionally reasonable and there have been built-in possibilities of landlords getting capital costs.

The Chair: Ms Leitch, Ms Forbes, thank you for coming.

ROB HERMAN

The Chair: Our next presenter is Rob Herman. Mr Herman, good afternoon, or I guess it's almost good evening.

Mr Rob Herman: Good afternoon, Mr Chairman, and good afternoon, learned ladies and gentlemen of the committee. My name is Rob Herman and I'm the president of Robinwood Management, which is a small, family-owned apartment management company that owns and operates seven apartment buildings in the city of Toronto. Some of these buildings have been in my family over 50 years and, believe it or not, some of the tenants have been there as long as my family has owned the building. I think that says a lot about the way we maintain our properties and the way we treat our customers, the tenants.

Please forgive me if I use the term "learned" somewhat facetiously, but what have we really learned after 20 years of "tenant protection"? We have what Bob Rae proudly called "the toughest system of rent control in North America," but what does that really mean? It means we have the most poorly maintained rental stock in North America, it means we have the lowest vacancy rate in North America, and it means we have the fewest number of rental units under construction in North America. It is also a system that the judges of the Supreme Court of Ontario have called "draconian, odious and offensive." I applaud the current government for trying to do something to reverse this trend.

Some of the buildings we own are 60 to 70 years old and naturally need major renovation from time to time. Buildings need new plumbing, wiring, boilers, windows and roofs. Landlords are not going to make these huge capital investments unless they have confidence in government and unless they can see a reasonable return on their investment. The banks aren't going to loan them the money even if they wanted to do the work. The removal of the restriction against major renovations contained in the Rental Housing Protection Act and the capital expenditure allowances under the new act seem to encourage such needed investment.

Just as a point of irony, I brought along two articles from Canadian Renovation magazine which were published in August 1989, which were specifically about a 70-year-old building that I own at Church and Wellesley. I wanted to completely renovate the building.

It was 70 years old. There were no work orders against the building, but I wanted to renovate it. I wanted to bring it up to current standards: new windows, new plumbing etc.

The title of the first part of the article was "Snared in the Bureaucratic Web." The author of the article found it so interesting that they actually made it a two-part article, and the second part of the article concluded by saying, "What this independent landlord really wants is the right to perform necessary rehabilitation on a privately owned building without excessive government interference."

I think this new act can go a long way to trying to achieve the objectives of a vast majority of the property owners in Ontario. However, there is one problem that I wanted to touch upon. While I agree that displaced tenants should have the right of first refusal to reoccupy a renovated apartment, it should be at a market rent for two reasons:

First, major renovations are extremely expensive. They can cost in the private sector anywhere from \$5,000 to \$20,000 per unit. In the non-profit sector they cost twice that amount. How can you expect a return that could possibly justify that kind of expenditure if you're limited to a 4% cap? In addition, it's not reasonable that a tenant can expect that you can reoccupy a completely renovated apartment for only 4% more than you're currently paying. I feel that if you're serious about having landlords undertake major expenditures and renovations, the tenant reoccupying the unit must pay a market rent. That's really the major issue I wanted to discuss with you today.

I could go on and on ad nauseam about the current rent control system and about how distorted it has made the marketplace, but if you look around you, I think it's self-evident to most of us, although I must admit I was a little surprised when, at her request, I went to meet with Mayor Barbara Hall about increasing the supply of private sector rental accommodation in the city. There were these 10-foot-high posters in the lobby of city hall saying, "Save rent control." What are we saving? We're saving crumbling buildings. We've got no new rental supply, no new construction or renovation jobs, and no freedom of choice for tenants. If you really wanted new rental supply, the posters should read, "Save us from rent controls." It's that simple.

The Chair: Each caucus has time for a question.

Mr Marchese: Just as a little note, in Vancouver, where there is no rent control, their vacancy rate is lower than ours with rent controls. We have a 1.2% vacancy rate and they have a 1.1% vacancy rate and they have no rent control there, just as a point of interest.

Mr Herman: Actually, they do, but anyway —

Mr Marchese: They do what? They eliminated it.

Mr Herman: They do have rent control in BC.

Mr Marchese: They eliminated that a long time ago.

Mr Herman: I know. They brought it back. But anyway —

Mr Marchese: Okay.

The Chair: That's it. One question each.

Mr Marchese: One question? Is that all the time we have?

The Chair: That's right.

Mr Klees: One question and you got the facts wrong.

Mr Marchese: Mr Herman, how do you do it? You've been in the business 50 years.

The Chair: Mr Marchese, we're moving on now.

Mr Herman: I have been in the business 50 years.

Mr Marchese: You're doing okay?

The Chair: Mr Marchese, Mr Gilchrist is next.

Mr Gilchrist: Thank you, Mr Herman. I think you've encapsulated the points very well. Given the fact that you are doing these things and this isn't a philosophical debate — you're not a university professor, you're not paid to lobby on behalf of one side or the other, you've put your own dollars on the line — I think it's doubly appropriate that you've come before us to make this presentation.

I think, while it would be lost on those whose minds were made up before this hearing even started, that to have tenants who have been in your building that long obviously must bespeak a good relationship that goes two ways. Thank you for proving again that there are good tenants and there are good landlords, and there are bad in both categories as well.

I'd just like you to clarify again. Under the previous two governments we saw a number of intrusions into the housing market. Would it be fair to say, based on what you've personally experienced, that their attempts at rent control and other intrusions limited both your ability and willingness to maintain building standards, to invest in new buildings and to increase the housing stock for apartment dwellers in this city?

Mr Herman: Absolutely. There's no question.
1730

Mr Kwinter: Mr Herman, I hope maybe you can answer a question that I've asked so many times, but I have never gotten a satisfactory answer. In your presentation you say, "We have the fewest number of rental units under construction in North America." What is possibly preventing you from building new rental accommodation? There are no rent controls on new accommodation. You can charge whatever you want. You can put in whatever you want. You can decide: "Here is the rate of return that I want. I'm going to build it." What is stopping you from doing that?

Mr Marchese: Barbara Hall.

Mr Herman: It's a lack of confidence in the government. It's a fear of people like Mr Marchese getting back into power and bringing in legislation that judges have called odious and offensive, which is pretty strong language coming from judges of the Supreme Court of Ontario.

Mr Marchese: Mr Herman, just before you leave —

The Chair: Mr Marchese, you've had your turn.

Mr Marchese: You've heard the name. You've been here for a while. It's Marchese.

Mr Herman: I stand corrected.

The Chair: Have you finished, Mr Kwinter?

Mr Kwinter: No. I'd like to go on if I can.

The Chair: One short question, if your question is very brief.

Mr Herman: It's lack of confidence in the government. Housing is a very long-term plan. It's an obligation that you have to the banks for 10 to 20 years, especially if you're building rental accommodation, and nobody is going to do it without confidence in the government.

The Chair: Very brief, Mr Kwinter.

Mr Kwinter: This government has been in power now for two years. There has not been any appreciable increase in rental accommodation. How do you respond to that?

Mr Marchese: It's coming.

Mr Herman: The legislation hasn't even been passed yet.

Mr Marchese: The good times are coming.

The Chair: Mr Marchese, be good.

Mr Marchese: If it wasn't for the NDP —

The Chair: Thank you very much, sir, for coming.

Mr Herman: Thank you for taking the time to listen to me.

ASLAM AHMED

The Chair: The last word goes to Mr Aslam Ahmed. Sir, I believe you're next.

Mr Aslam Ahmed: Thank you for inviting me. I'm a bit nervous. I have never spoken to a committee before.

The Chair: I'll try and keep order here. They're pretty rough, but they'll be good for you.

Mr Marchese: I'll do my best.

Mr Ahmed: I'll actually read out a statement to you and relate my experiences, and then if you have any questions, you can ask me.

Honourable members, I would like to place before you my concerns regarding the use of income criteria and credit rating for the purposes of determining the eligibility for rental accommodation. I am a victim of the use of such criteria as above.

I arrived in Canada in late 1989 with my spouse and infant child, and towards the end of October 1989, after spending a few weeks with friends, I applied for rental accommodation managed by the Shelter Corp of Canada. After due formalities, I was informed by the rental agent that I should come for the keys after two days. I ordered the furniture from Woolco and gave them my new address.

When I went for the keys, I was informed by the rental agent that I had been refused the accommodation, as I had no credit rating. I became emotionally distraught. I could not understand the reasoning for the refusal and pleaded with Shelter Corp to allow me the accommodation, as I had nowhere to go and I could not abuse the hospitality of my friends.

We are neither rich nor poor. We are average Canadians. However, we offered additional money as security, and my friend even offered to cosign the rental agreement. But the officers of Shelter Corp were not moved to allow us the rental accommodation. It was almost as if we were being pronounced guilty of an offence that we had not committed. Please accept my assurances, kind sirs, that we have not had the misfortune

Am I permitted to say that the default rate for rent is a fraction of the rate of vacancy? Then why this onerous legislation? The criteria to use income and credit rating are inconsistent with the needs and not just ideals of an inclusive society. We as Canadians are all that now. We do not need to regress into a Third World realm. Thank you.

The Chair: For someone who's nervous, sir, you gave an excellent statement. Questions from the government? The government passes.

Mr Kwinter: Thank you for your presentation. It's interesting to have someone who's actually experienced this particular situation. I'm sure you know that Commissioner Norton of the Human Rights Commission has strongly criticized this government for proposing these kinds of criteria. It's a reverse onus. What they're saying is that if you have no credit rating, then we're not going to give you anything. To my mind, there's ample opportunity for a landlord to check out a tenant to see if there is a negative credit rating or a negative history, and they can then make a judgement based on that. I don't think anybody is advocating not doing that.

What we have, though, under this provision is that a landlord could on the basis of no history, no credit rating, automatically decide that because I don't know him, I'm not going to take him, whereas if you can come up with your first month and your last month and, as I say, if there's no adverse record, then I agree that should not be the basis for a rejection as a tenant.

Mr Ahmed: I'm in agreement with you there. We do not need this. It's very onerous, actually, for people. If the committee wants, I will present some more evidence. I have friends and relations who have come here and ended up with the same problem and worse. My own first cousin came recently and the landlord demanded six months' rent and he went and paid the six months' rent. I told him, "This is illegal out here." He said: "What can I do? Tell me."

Mr Kwinter: How did you resolve your problem?

Mr Ahmed: There was another landlord. I went to another place and this gentleman was quite kind and he let me have the place. He didn't bother too much. There is inconsistency even in the manner in which they are applying this legislation. It creates discrimination, you see. Somebody who doesn't like my face can simply refuse me accommodation just because he doesn't like my face. It's quite intolerable in a society like ours. I think this is the best place in the world to live. I've lived here for so long now, but initially when you come here,

of defaulting on any obligation that we have contracted. We are not deserving of such inhumanity.

As I watch with some trepidation the erosion of our much admired civil society in Ontario, I cannot help feeling that the proposed bill will create a divisive society with ills reminiscent of the Third World. The bill, if enacted, will discriminate against newcomers to Canada and young persons starting out on their own. It's a shock. You tell yourself: "Where have I come? I've come from one Third World to where, another one?" This is totally unacceptable in a civilized society. The court protects the landlords. If somebody's not going to pay their rent, you can throw them out, and everybody knows that. Why do you need this legislation?

Mr Marchese: Mr Ahmed, it's good to have your testimony, because the Conservative members need to hear individual testimony of this kind. Discrimination exists now. This section in that bill that you've spoken to will simply legitimize it and make it possible for landlords to feel good about doing it, so they wouldn't feel bad about doing it already.

Keith Norton, the chief commissioner of the Ontario Human Rights Commission — and he was a former cabinet minister in a Conservative government — came before this committee and said that what they are doing is highly discriminatory and will affect a lot of people. You're not alone in saying this. All we can hope is that these people on the other side are going to listen to people like you and hopefully will listen to one of their own, a former Conservative cabinet minister, who is saying this is highly discriminatory.

Mr Ahmed: I urge upon the members on the government side to reconsider this legislation and think very seriously about the effects it will have on newcomers and on young people starting out on their own. It doesn't have to be people coming from abroad. It could just as well be somebody coming in from Newfoundland. As you know, people in Newfoundland are not all that well endowed, or somebody from Saskatoon. What are you going to do about those people, not to speak of these newcomers who come here with a credit card from somewhere else? There's no credit rating for those, and this chap says, "I can't do anything about this credit card." It is very difficult.

The Chair: Mr Ahmed, thank you very much.

That concludes the presentations this afternoon. If I could have the committee's indulgence for a few moments before we adjourn, the committee will be travelling to Thunder Bay and holding hearings in the Valhalla Inn. The plane leaves Terminal 2 at 8:30. Presumably you've all received your packages with instructions as to what to do with respect to taxis or limousine. That call should be made the night before, tonight. If there are no questions, I will adjourn this hearing to Thunder Bay tomorrow, Wednesday, August 6, at 1 pm. Thank you.

The committee adjourned at 1740.

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Official Report of Debates (Hansard)

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Journal des débats (Hansard)

Mercredi 6 août 1997

Standing committee on general government

Tenant Protection Act, 1996

Comité permanent des affaires gouvernementales

Loi de 1996 sur
la protection des locataires



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 6 August 1997

Mercredi 6 août 1997

The committee met at 1301 in the Valhalla Inn, Thunder Bay.

TENANT PROTECTION ACT, 1996

LOI DE 1996 SUR LA PROTECTION
DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies /
Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

The Chair (Mr David Tilson): Good afternoon, ladies and gentlemen. This is the standing committee on general government of the Ontario Legislature. We are today having public hearings on Bill 96, the Tenant Protection Act.

PERSONS UNITED FOR SELF-HELP
IN NORTHWESTERN ONTARIO

The Chair: We have a number of people making presentations to us this afternoon, the first of which is Morgan Atkinson, development worker, Persons United for Self-Help in Northwestern Ontario. Good afternoon, Ms Atkinson. You may proceed when you're ready.

Ms Morgan Atkinson: My name is Morgan Atkinson. I'm a community development worker with PUSH Northwest, and I thank you for this opportunity to speak today.

Persons United for Self-Help in Northwestern Ontario is an organization of persons with mobility, hearing, vision, psychiatric, developmental, neurological and non-visible disabilities and seniors who work together to address issues that impact directly on their lives, rights and freedoms. PUSH Northwest and its community-based Disabled Alliance Network groups include consumers in the geographic area of northwestern Ontario and the Nishnawbe-Aski Nation.

Several sections of Bill 96 are of concern for persons with a disability, who often are made vulnerable by the very laws that claim to protect them. These issues have been brought to your attention in the previous hearings, but the concerns of consumers have been all but ignored and nothing has been resolved. Therefore it is necessary to reiterate these concerns.

Under part IV, "Care Homes," the rights of care home operators far exceed the rights of tenants. The care home operator is entitled to enter residents' units without notice to provide care or perform bed checks if it is agreed to by the tenant. The operators in care homes will have the right to transfer residents to alternative facilities when the level of care needs changes. The operator is charged with the responsibility of determining when the level of care requires changing.

Allowing landlords to evict tenants in a care home on the basis that they cannot meet the care needs of the tenants is patronizing. It also assigns the assessment of need to the landlord and the tribunal, who may or may not be qualified to make those decisions. A person with a disability, like any other person, must be given the right to make the decision whether or not their needs are being met. This provision will primarily benefit government and service providers who will no longer have to deal with the pressures of providing services where needs increase. However, this creates feelings of extreme vulnerability for tenants and their families. What if the landlord wants the eviction on the basis that they cannot meet care needs because of lack of funding? In this scenario there is no incentive for government or landlords to meet care needs.

Sections 73 and 74 of Bill 96, dealing with abandoned property, give landlords the right to dispose of a tenant's property after they believe the rental unit to be abandoned and they have received an order terminating tenancy. This is of particular concern for persons who live independently in the community but from time to time check themselves into facilities that provide psychiatric services, often for more than 30 days, which is the stated period of time to wait for the tenant to claim property. It is also a problem for persons with developmental disabilities. Not all tenants will remember to, have an opportunity to, or be able to notify the landlord prior to taking an extended leave.

If you think this is not a realistic scenario, talk to persons with psychiatric and developmental disabilities about the difficulties they have in obtaining housing or retaining housing once the landlord determines that the tenant has a psychiatric or developmental disability, often not because of the tenant's personal behaviour but because of the community's assumption that all individuals with psychiatric and developmental

disabilities are violent. Where are the built-in safeguards for tenants in this situation?

Access to affordable housing has always been a problem for persons with disabilities because their income is usually 60% to 70% lower than persons without disabilities. Rent increases every time a tenant space is vacated means the potential for escalating rents with no ceiling. The potential is great that this legislation will cause a major housing crisis. Has the government considered the full impact of this legislation on people with disabilities, seniors on fixed incomes, low-income families and the general population?

The introduction of section 200 identifies more issues of concern for persons with a disability. Persons with a disability are concerned about the impact that section 200 will have on persons who have a low income. As stated previously, a large percentage of persons with a disability live on a low income and therefore are vulnerable to the discrimination that this act allows. The fact that a landlord is given the authority to demand personal information such as the source of a person's income can lead to discrimination. There are landlords who currently discriminate because of income and income source, and this legislation will only give landlords the legal right to do so. Checking rental and credit history is an appropriate practice for determining if a landlord should rent to a prospective tenant. However, it is not appropriate for a landlord to access income information and, based on that information, decide that the person is likely to default on their rent. This is what section 200 would allow.

This government is making the assumption that people receiving social assistance will default more often on rent than others. This type of comment is discriminatory and confirms the misconceptions and prejudices of the general public. There are no studies to support making these statements, and the government should be working to dispel myths, not perpetuate them.

Persons with a disability often have difficulty finding rental units which accommodate their needs. Income restrictions will make this even more difficult. The rent-to-income ratio of 30%, the standard that many landlords would use to determine the eligibility of a prospective tenant, would eliminate many apartments for a person with a disability who is receiving social assistance. The only apartments that will be affordable are subsidized housing units, which are available in very limited numbers and have long waiting lists and a government freeze on building more units.

We are asking the government to consider these concerns and the limitations that section 200 of Bill 96 puts on persons with a disability who are receiving social assistance or living on a low income. Section 200 will have a negative impact on these individuals by allowing landlords to discriminate on the basis of the person's source of income when looking for an apartment.

Another concern is that if landlords are given rent directly from social assistance cheques, which is

proposed under the new Social Assistance Reform Act, there will be no incentive for landlords to maintain the building. If the landlord is guaranteed rent no matter what, where is the incentive to maintain an adequate standard of living in the tenancy unit?

The government has added a new provision which gives them the power to exempt from the legislation classes of accommodation. This can be done through regulation. Therefore the government can decide without any consultation or public hearings that tenants living in a particular type of housing, ie, care homes, will no longer have any rights.

In Bill 96, persons with a disability are not treated as equal citizens. Consumers are patronized and treated as if they are not able to make their own decisions or be financially responsible. As well, persons with a disability are discriminated against on the basis that a large number live on a low income. How can this government justify treating people with this type of discrimination and disrespect?

The Harris government has listened to consumer opinions expressed in the previous hearings. The same concerns are being expressed again in these hearings, with added emphasis on the discriminatory nature of section 200. We have read the Hansard reports from across the province and the issues are the same. Why has there been no response to these concerns evidenced by redrafting the legislation or acknowledgement of the validity of the consumer voice? When will this government acknowledge the concerns of the most vulnerable people in the province? We ask you to give credibility and validity to the process of these hearings by acknowledging the issues brought forth by persons with a disability and making the corresponding changes to Bill 96. Thank you.

The Chair: Ms Atkinson, there's time left in your presentation for members to ask you questions. Would you be prepared to entertain questions from members of the committee?

Ms Atkinson: Yes.

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Mr Michael Gravelle (Port Arthur): Good afternoon, Ms Atkinson. Thanks very much for making the presentation. I think, just for the information of the committee, it would be useful to know what percentage of people in northwestern Ontario are disabled.

Ms Atkinson: In Thunder Bay, 18% of the population have a disability and 12% are seniors who may have some degree of disability. In general, it's usually about 15%, but in Thunder Bay the percentage is greater because people come in from northwestern Ontario because there is a greater degree of services in Thunder Bay.

Mr Gravelle: So there are a number of people who come to Thunder Bay as a result of the access to services. Obviously with PUSH Northwest too, you're dealing with a lot of people, I would think, on some of the

housing accommodation issues whom you're already dealing with on a fairly regular basis.

Ms Atkinson: Yes.

Mr Gravelle: Section 200, which you referred to very specifically in your presentation, is one that certainly has been referred to. As you probably know, the head of the Ontario Human Rights Commission came forward at public hearings on this bill and very strongly made the same point you're making, that indeed it is discriminatory. Has there been a great expression of concern about that particular part from the people you've been dealing with in the community?

Ms Atkinson: There is great concern. I've heard concerns even without this type of legislation making it legal to discriminate; I've heard concerns about discrimination even before it's legalized. It's there, and making it legalized will just exacerbate the problem.

Mr Gravelle: As you say too, checking on rental or credit history is one thing, but checking on the source of income obviously puts people in a position where you really are designating people who are obviously either on social assistance or in various other situations. They can make a determination on what they presume that person will be like, which clearly feeds into prejudices that we have in our society.

Ms Atkinson: Exactly.

Mr Gravelle: How much time do I have? Are we sharing this time?

The Chair: You've got time for one brief question, Mr Gravelle.

Mr Gravelle: I don't know where to go with this one; there are so many areas to get into. Give us one area, Morgan, if you would. You mention quite frankly that, "The Harris government" — and I think you may have misspoken here or misread it to some degree — "has listened to consumer opinions expressed in the previous hearings." I think what you're really saying is that they actually haven't listened in terms of some of the changes.

The Ontarians with Disabilities Act is something you fought very hard for. Do you believe that if the government brought forward an Ontarians with Disabilities Act, a lot of the concerns that you express in this particular presentation would no longer be there?

Ms Atkinson: If an Ontarians with Disabilities Act was brought forward in the way that we see an Ontarians with Disabilities Act should look like, a lot of the regulations in this would have to be changed, really, because they would go against what we believe an Ontarians with Disabilities Act should look like.

Mr Marchese: Ms Atkinson, I'm not sure that you spoke about vacancy decontrol and the effect that would have on people with disabilities. You're familiar with vacancy decontrol?

Ms Atkinson: Can you explain that?

Mr Marchese: If someone moves from one apartment to another, that immediately allows the landlord to raise rents as much as he or she thinks they can get. We fear that's going to affect a lot of tenants. I'm assuming

you're concerned about the effect it will have on people with disabilities in particular.

Ms Atkinson: Yes. As I stated, a large number of people with disabilities live on a low income. Housing is restricted as it is for people with disabilities, particularly if you're looking for accessible housing. There are just a lot of issues that feed into that. You need something affordable and you need something accessible, and raising rent is not going to help the situation.

Mr Marchese: I think you spoke about the treatment of tenant property and a 30-day notice being inadequate for people either with mental illness or with disabilities. Do you have a suggestion as to what is an appropriate time frame?

Ms Atkinson: The problem with that section and what I can see happening is that people with psychiatric disabilities, people with developmental disabilities, are looked at negatively by society in general a lot of times. If a landlord decides they don't want this person living there, there's sort of an easy out there. If a person is leaving for an extended leave time in order to check himself or herself into facilities or for an extended vacation, there's an opportunity for a landlord to say, "I think they've abandoned their property, so I'm going to go to the tribunal and terminate the tenancy," and that would be that. It leaves too much power in the hands of the landlord to determine if someone has abandoned their property.

Mr Marchese: So some language should be there to protect people with mental illness or people with disabilities in particular. That's what you're suggesting?

Ms Atkinson: Yes.

Mr Marchese: On the whole issue of income information, by the way, the Ontario Human Rights Commissioner has spoken against it. He was a former cabinet minister with a Conservative government. He's very concerned because he recognizes that discrimination is happening out there and that if you put that language into this bill, it will legitimize for all landlords that they can do that freely without any problem. You're not the only one who has raised it. There are many people who have been raising this concern, and I hope — the government is hinting that they might change it.

Ms Atkinson: I'm aware of what he said and I'm just reiterating that opinion to let the government know that a lot of people share that opinion.

Mr Steve Gilchrist (Scarborough East): Thank you, Ms Atkinson. I appreciate you coming before us here today. I know one of the things that even we wrestle with when we're dealing with a bill, any new piece of legislation, is its complexity and the interrelationship between how various ministries handle a problem.

I think you've identified the one area in this bill that we've probably wrestled with more than any other: the need for extra care for patients in care homes. You're probably aware of the evolution of the CCACs, the community care access centres, the one-stop shopping that will in each community across the province be

responsible for ensuring that all the appropriate services are there, particularly for seniors and people with disabilities. Let me just walk you through some of the steps that would have to take place, because I note that an awfully big portion of your presentation dealt with possible dislocation of people with disabilities.

First, there's mandatory mediation. They would have to go to the tribunal. The landlord would have to prove that the level of care can't be delivered where they are right now. At that point, the Ministry of Health would take priority and the community care access centre would have to be able to guarantee both to themselves and to the tenant, the person involved in the possible relocation, that alternative and more appropriate care facilities are available. If that test is not met, that person does not move.

I appreciate that until the regulations get drafted — and that cart always follows the horse, unfortunately, in the legislative process — a lot of that detail won't be there. But I can assure you that all of us have parents and many of us have relatives who are disabled in one form or another, and I would not think that any of us would want to see the sort of suggestions that you make in your presentation come to pass. So I want to give you that absolute assurance that the Ministry of Health will take a lead in any case where it really is a question of the appropriate level of care. Once that detail is there, I believe I can say all of your concerns in that regard will be addressed.

Ms Atkinson: Can I speak to that?

Mr Gilchrist: Please.

Ms Atkinson: What I see as a problem is that the power is being taken away from the individual and given to the landlord and the tribunal, who may or may not be qualified to make those decisions. I think a person is able to know whether their care needs are being met.

Mr Gilchrist: I think we're talking about, and not to dwell on any one example but just as a for-instance, someone with dementia severe enough that they may not be able to form a qualified opinion of what is best for them. I think you would agree with me that there certainly are circumstances where people have to rely on the health profession or relatives to make decisions for them, and that's why the bill is drafted in such a way that there has to be that oversight by the Ministry of Health.

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There is just not going to be anyone moved unless it's to equal or superior care facilities. That's an absolute; it really is. I guess until it comes to pass, you're going to have to take us on faith on this, but I can assure you that the Ministry of Health will be taking the lead role in terms of assessing the presentation. It won't be a landlord who I would agree with you is probably quite unqualified in medical matters. It will be somebody from a health background who will be making those final decisions.

Ms Atkinson: But doesn't that also take away the responsibility of the landlord and the health profession to meet those care needs?

Mr Gilchrist: Oh, far from it; just the opposite. Part of what the community care access centres will do is to make sure that the appropriate level of care is available in the community. The mere fact that an issue like this might arise might bring a spotlight on the fact that in a particular community appropriate level of care is not available. The Ministry of Health will be charged via the community care access centre to then make sure that those services are provided.

The Chair: Ms Atkinson, Mr Gilchrist, it's obviously a topic we could spend some time on, but unfortunately, your time has run out. We thank you for coming this afternoon. Being the first presenter is sometimes most difficult. Thank you for breaking the ice and coming and speaking to us.

SHELTER HOUSE/THUNDER BAY

The Chair: The second presenter this afternoon is Keith Milne, who is the manager of Shelter House/Thunder Bay. Good afternoon.

Mr Keith Milne: Good afternoon. Thank you for the opportunity to come and speak with you again. It seems like, as was mentioned in the previous brief, maybe there wasn't a sense from a lot of us that the changes that were asked for had been made to this bill.

I come to you today really to ask for your help. As the manager of a shelter for homeless people in this community, which provides probably more service to people in extreme poverty than anyone else in this community, and also as the chairperson of the Ontario Association of Hostels, which has a membership of over 60 emergency shelter/hostels throughout the province, I'm quite aware of the fact that we, as agencies which are not funded with any adequate level of funding — most of us are responsible to go out and raise our own money for the work that we do — need to ask for your help in how we are going to continue to deal with the problems of people who are homeless and the numbers that continue to increase. We turn around to this bill and find another barrier being put in the way for someone to find adequate housing.

I want to share with you some facts and some figures. The first fact and figure I'd like to share with you has the name of George. He's about 5'6" and 155 pounds. He doesn't have a visible disability, but he does have a disability. His income comes from provincial social assistance/disability assistance programs. When he, in his simple way, goes looking for somewhere to live, he's now presented with another problem of a landlord maybe not wanting to take anyone who has that source of income. Once again, he has the barrier of trying to find somewhere that's adequate and safe to live.

Or Sarah, who's about 5'3" and 115 pounds and has three children, and for reasons that are beyond her circumstances is on mother's allowance. Here's another opportunity for her to be turned away from adequate housing, if it's even available.

I'm completely puzzled as to how a government cannot think through to the consequences and the pain that is caused by allowing extra barriers to be put in place for people. Not everyone who is homeless has a severe psychiatric illness. Not everyone who is homeless fits any type of stereotypical thinking we might have. They are all individuals, all people who have their own challenges in life. They are not there and they are not the poorest of the poor because of their own choices necessarily. Sometimes, because of their lives, they have made some poor choices, but I don't think we can blame the poor for being poor. Instead of creating more barriers, we need to find ways to work together to overcome this growing problem of people and families who are homeless.

In 1996 the shift and change in homelessness has changed dramatically. In Metro Toronto in previous years the typical profile of a homeless person was a single male. That made up about 60% of the homeless people who used shelters in Metro Toronto. In 1996 there was a complete shift: 60% of the people using shelters within the Metro Toronto system were families. Obviously there are some very major barriers to overcoming the problems of homelessness.

We ask for your help. What can we do? We don't have adequate funding to try and house everyone. All we're meant to do is provide short-term emergency housing so that people can move on.

I want to just share one last story, because we often get this picture in our minds of who is homeless. Let me tell you the story of Gord, who showed up on our doorstep a few years ago. He had experienced some difficulties. He was homeless; he needed somewhere to stay. He stayed with us for about a month and a half. He was able to overcome some of his barriers and now serves as the chief financial officer for a chain of restaurants in Calgary, Alberta. Not everyone who is homeless may fit the picture you may have in your mind.

My request is that somehow this government will begin to listen, because we do not want to enter the situation where — many years ago it was uncommon to think of this stat they call the unemployment rate or the employment rate. Pretty soon we're going to be quoting the stat of the homelessness rate. I don't think that's the kind of society any of us wants to head towards. Thank you.

Mr Marchese: Thank you, Mr Milne. It's good to see you again. It's important to have people like yourself raise these issues because you're on the front lines, dealing with people who are very vulnerable. Sometimes we are sheltered from that. Part of the problem is that this government is not creating housing any more. They've decided to get out of the business, they say. They want the private sector to step in. Perhaps Mr Larson, who is next, might help us out. He might give us a sense of how they're going to build housing for those who really need it; I'm not sure. We really need answers from the government to help us out, to tell us how they're going to

provide for those who, for one reason or another, become very vulnerable.

I haven't heard any good answers other than the government members saying: "We're going to do it because the system is broken now. We haven't been able to do it in the past, so once we get the government off people's backs, especially the private sector, things will start happening and we'll see those kinds of protections you're looking for." I don't see them. Do you see them, Mr Milne?

Mr Milne: It's difficult from my perspective of dealing every day with people who are the most vulnerable, the most challenged in our communities. It's difficult for me to see the kind of activity that's spoken of, that somehow private sector investment is going to produce housing solutions for people who need support, who need assistance in order to be there and in order to get to a stabilized position so they can take closer steps to their own independence. It's very difficult, from our angle, to see any improvements. It seems that we're having more barriers placed in our way. Supportive housing has been frozen and social housing virtually eliminated. I would love to hear something that would give me some encouragement, because after seven years of working in this field I don't see very much encouragement, I don't see any improvement.

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Mr Gilchrist: Thank you, Mr Milne. I appreciate your comments. I have no doubts that you're very sincere about the problems you face up here in Thunder Bay.

I should share with you that Seaton House — I'm sure you're familiar with that important shelter in downtown Toronto — did a survey of all hostel use in Metro Toronto last year. I'm very pleased to report that they said shelter use was down 1.8%. I would invite your comments. Clearly the problems we all face today all across Ontario are a legacy — and I'm not going to point a finger at a government; that's not appropriate any more, there's no mileage in that. But just recognizing that even if someone had started planning another housing co-operative in June 1995, if you were really lucky and the weather had cooperated, you would just now be bringing it on stream. So any problems we face today I think can't really be blamed on anything that's happened since June 8, 1995.

I would ask you, then, that if we face these problems with the status quo legislation, what would you do to improve the — simply throwing dollars at the problem hadn't solved it, not between 1985 and 1995. It had not made the problem go away. What other creative solution have you ever considered or have you ever offered to these gentlemen that you may not have shared with us as to how we could meet the needs of the homeless and those who need supportive shelter up here in Thunder Bay?

Mr Milne: First of all, I don't think the situation was static between 1985 and 1995. There was progress being made. In the June you speak of, after your election to

government, there were over 101 apartments that were taken away, allocations that were made that were removed from the potential market. That would have had a significant impact positively on this community. But even if the need is to take away that type of thing, then there need to be some alternatives.

Shortly after the election we were approached by telephone by one of the largest landlords in this community, or former landlords, offering to give us an apartment building with about 130, 150 suites. Knowing the history of the building, I wasn't too anxious to pursue it, but the thinking was that as a non-profit maybe we'd be able to acquire money to improve and bring the thing up to code and possibly keep the units on the market. My concern was that there were 130 units at the low end of the market that were being removed due to back taxes, due to this private landlord not able to make a go of this.

I met with him, even though it was not a property that I would necessarily look at and think was reasonable, but I met with him. Unfortunately, another program had been cut as well. There was a previous program that could have been used to turn that building into a co-op and possibly renovate to improve the quality and bring it up to the proper building and fire codes. Those units then could have been left on the market, but instead, left up to the ways of capitalism and free enterprise, those units are now completely lost.

I don't think we can say that before this government there was nothing being done. Certainly there were some significant problems, but with proper planning I think we recognize that there is a segment of the population that needs supportive housing, that needs social housing, and left to the devices of free enterprise, there's not a strong enough market there to provide an opportunity for investment.

I would look at alternative funding. We would look at possible purchase of units and renovations to activate units if there was some sort of alternative funding to access the capital. But I can't go out and raise the money in this community to simply add to our real estate.

Mr Gravelle: Good afternoon, Keith. Obviously, you view this bill as one more step along the path that has been taken to, in essence, set up more barriers for people who have greater needs. I shouldn't speak for you, but it seems to me it comes down to whether or not people feel there is a responsibility by government, whether municipal, provincial or federal, to play some role or to have some responsibility for people in our society. Clearly you feel that's the case. You just made reference to if there was an opportunity for Shelter House to get involved in some kind of housing development, you might consider that, but obviously that funding isn't in place; it's not there any more.

It's certainly obvious Mr Gilchrist doesn't agree with that philosophy, but one of the first things this government did, almost exactly two years ago, was cut social assistance benefits by 21.6%, I think it was. Did you see an effect in terms of your activities at Shelter House

within a reasonably quick period of time? Can you statistically tell us there was a difference in terms of what happened to the need you see in the community now?

Mr Milne: There was a lag in any increase of about three months. Within a year after the 22% decrease in social assistance, we experienced an average 40% increase in use of services. That is consistent with every shelter I'm aware of in the entire province. That's a major impact. If I was in a for-profit business, I'd have it made to have that big an increase in business in one year.

Mr Gravelle: Clearly, we as legislators should be concerned about that. I know the city task force on poverty is very much addressing those issues as well and there's some real concerns about it. In regard to what Mr Gilchrist said about Seaton House's survey, I'd be curious about from when to when?

Mr Gilchrist: From 1995 to 1996.

Mr Gravelle: I'd be interested in seeing it, because it also feeds into — I'd love to see that study. Have you seen that study, Keith?

Mr Milne: I haven't seen it in its entirety.

Mr Gravelle: Regardless, the increased need was there. It's also the question of announcements like, "There are fewer people on social assistance," quite proudly released by the government every month. Frequently, nobody seems to know where all these people have gone. I'm thinking that some of them literally are in a position where they no longer have affordable housing of any sort at all.

Mr Milne: Because of restrictions and new policies and things like that, if a person does not qualify for social assistance, for a variety of reasons, they cannot reapply for three months. So what in the world are they going to do for three months?

I know very closely of a situation where a young woman was in a relationship, living with somebody for about a year, and decided that for her own good and the good of her child she could not remain in that situation. Because she had applied for welfare assistance some time previously within the year and because she actually left where she was living voluntarily and there wasn't a situation of physical abuse, she was denied welfare for three months, so she had to leave her child with the father, even though that wasn't the best situation for the child, and basically begged and borrowed from friends to survive for three months.

Mr Gravelle: The important point too is that in all these numbers there's an individual story behind every statistic. That's what gets lost in this.

Mr Milne: That's what I wanted to bring today, the fact that there are individuals who are suffering pain. We need to be conscious of that and aware of that. I know it's not something you can be confronted with every day. I testify to the fact that it can be very wearing. We come hat in hand asking for any assistance to help us deal with this situation, any bright ideas.

The Chair: Mr Milne, unfortunately we've run out of time. I thank you for coming and giving your thoughts to the committee this afternoon.

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THUNDER BAY HOME BUILDERS' ASSOCIATION

The Chair: The third presenter is Rene Larson of the Thunder Bay Home Builders' Association. Good afternoon, Mr Larson.

Mr Rene Larson: I appear before you today as first vice-president of the Thunder Bay Home Builders' Association, which has over 40 members who are builders, land developers, renovators, suppliers, as well as service providers and professionals in the housing production industry.

We thank you for the opportunity to appear before your committee in Thunder Bay. I think it is very important to the democratic process that your committee travels across the province to hear from Ontario citizens on proposed changes to the law. I think it's very important that you come to the north and to the northwest of Ontario.

Thunder Bay Home Builders' Association wishes to advise the committee that it supports Bill 96 with respect to the changes proposed for rent control. In the opinion of Thunder Bay Home Builders' Association, the government has struck a proper balance between the interests of landlords and their tenants.

Allowing the landlord to adjust the rent upon termination of a tenancy will give that landlord the ability to carry out renovations and upgrading to rental premises with at least the hope of recovering his or her costs. In comparison, the present rent control regime limits the ability to recover such costs, and I am sure that some landlords are so discouraged about going through the current regulatory regime with the result that needed renovations and upgrading never occur.

In Thunder Bay the public enjoys the benefits of a competitive rental marketplace, with a vacancy rate among apartments with three or more units of 5.6% in October 1996, according to a CMHC market analysis, although in the previous October 1995 the vacancy rate stood at 6.2%. So there was a statistically significant decline.

If there is a competitive marketplace, then tenants will have a choice of both quality and price of rental premises. Furthermore, landlords will need to respond to the marketplace competition in the key areas of rental rates and the curb appeal of their buildings and individual rental premises. It is this element of choice by the consumer renters which will raise the standards of the premises and at the same time check the rental prices.

This new element of competitiveness in the rental marketplace will be stimulated by Bill 96 as it is proposed. If investors and builders perceive that there will be freedom to invest and earn competitive rates of

return in the rental marketplace without a vast bureaucracy and the red tape of a rent control regime as it currently exists, there will be a stimulus on the supply side of rental housing which will self-regulate the prices of rental housing. With no further supply of assisted housing forthcoming from governments, it will be up to the private sector to provide rental units to the public.

Thunder Bay Home Builders' Association supports the position of the Ontario Home Builders' Association presented to your committee on June 26, 1997. Increasing the supply of private rental housing in Ontario will not only depend upon adoption of the changes to the proposed rent control regime in Bill 96 but will also require consideration of changes in other areas. Why is GST on production of new rental accommodation taxed at 7% versus 4.5% on most ownership housing? Property taxes on apartment buildings with seven or more rental units in the city of Thunder Bay are almost double that of those with six or less units which are in the same class as single-family dwellings. It is hoped that the Fair Municipal Finance Act will result in a fairer and more consistent property tax system in Ontario.

Thunder Bay Home Builders' Association respectfully submits that changing the rent control regime as proposed in Bill 96 will stimulate rental construction and the renovation and retrofit of existing buildings, creating a healthy and competitive supply of housing for tenants, more construction jobs and more taxes for all levels of government.

Thank you for the opportunity to be here today.

The Chair: Mr Gilchrist may have a question for you.

Mr Gilchrist: Thank you, Mr Larson. I appreciate your coming before us here today. It's our pleasure to be here in Thunder Bay. Thank you for your comments.

Let me ask you, if I may, are you aware by any chance here in Thunder Bay of the disproportionate level of taxation that's applied to apartments vis-à-vis what would be applied to a single-family home?

Mr Larson: Yes, the assessed rate of apartment buildings of seven or more units is approximately double that of single-family dwellings.

Mr Gilchrist: Okay, well, you're quite fortunate here in Thunder Bay, because in places like Toronto it's as high as 6.2 times as much as what in the same area a single-family home would pay in taxes. By means of inviting a comparison, in my riding of Scarborough East if the city government had been fairly taxing apartments, the average rent, which currently stands at \$550 for apartments in my riding, would drop by \$125 overnight.

Would you care to hazard a guess, if the municipality here was to fairly assess apartments, what that would do to the monthly rental price of an apartment here in Thunder Bay?

Mr Larson: I think it would probably be in the order of about a \$100-a-month decrease.

Mr Gilchrist: What would that be as a percentage of an average rent here in Thunder Bay?

Mr Larson: About one eighth; so 12%.

Mr Gilchrist: A 12% reduction. Are you aware of any group of tenants' associations or, on the other side, are you aware of any municipal councillors who have recognized the unfairness of this and are campaigning this fall, who, if elected again, will change that situation and drop those rents 12%?

Mr Larson: Quite frankly, I think the municipal politicians are afraid to deal with that issue and it'll have to be the provincial government that does it.

Mr Gilchrist: I'm pleased to say that in a companion piece of legislation we have just done that. We have now given them all the tools. There are no excuses they can make any more. It's quite ironic you say that, because as we go around the province on bills like this, we're accused of interfering with day-to-day municipal affairs. Yet your submission to us is that they can't be trusted to handle something as simple as dealing fairly with apartments. I must say it bothers me on a personal level that tenants and their associations would not see that one of the most obvious remedies for the lack of affordable housing is to change the property tax structure, and I'm intrigued that that is not in fact taking place here in Thunder Bay either.

Mr Larson: Mr Chairman, I did not use the word "trust."

Mr Gilchrist: Sorry, my choice of words. Thank you for taking the time to make a presentation before us.

Mr Gravelle: Mr Larson, welcome. I think it needs to be recognized that, even just today, it was announced that among the other things the provincial government is doing it is downloading responsibility on to municipalities in an extraordinary amount. I think it was announced today that in northern municipalities at this stage, as best we can tell, there's a shortfall of about \$136 million. So to simply phrase it in that way, Mr Gilchrist, in terms of what municipalities should do, does not take into account some of the realities.

I'm sure, Mr Larson, you are aware of what the government would call transfer of responsibilities, which is putting municipalities in a very difficult position, which is not to say that the issue shouldn't be dealt with. But I think to simplify it in that manner is a bit cute. The fact is that there are some really extraordinary new responsibilities being put on municipalities which are going to obviously have the option of either increasing property taxes or reducing services, which I'm sure, Mr Larson, you're familiar with. But no comment?

Mr Larson: No comment.

Mr Gravelle: Thank you very much for your presentation. I appreciate it. I presume that ideally the home builders' association would prefer to have rent controls completely eliminated. Is that probably fair to say? You've described this as a balance.

Mr Larson: I think, if you're an economic theorist, that you'd prefer not to have them and to have freedom in the marketplace. But there obviously is a need to move from one system to another, and I think the government has balanced it in doing that.

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Mr Gravelle: Obviously there's a clear belief that if this bill goes through, certainly in terms of the rent decontrol, or the vacancy decontrol as I think it could be called, but certainly the fact that once an apartment is vacated, the landlord or owner can raise the rent to whatever the market will bear. The home builders believe, that being the case, that will put them in a position where there will be more construction, there will be more rental units built. It would probably be useful to know, has there been any sort of statistical study of what it will mean in terms of the difference it will make? Presumably that will mean that rents will have to go up in order to be able to facilitate —

Mr Larson: I think it's interesting that in Thunder Bay in 1996 there were 56 rental units constructed. To show the significance of government policy, it has been attributed by CMHC that all 52 of these units were because of the Bill 120 "housing unit within a residence" provision, which allowed people to construct fourplexes instead of duplexes, and those were the only rental units that came on to the market in 1996. It was a response by the builders and by the investors to the ability to essentially cut the cost of their land in half for each unit and thereby put some more housing stock on the market.

Mr Gravelle: I guess the point I'm making is that this bill going through as it is would obviously put landlords and owners in a position where they could raise rents once an apartment is vacated and that would be necessary in order to increase their revenue and therefore be in a better position to build more. Is that how it follows in terms of the process of why more —

Mr Larson: I think it's the whole psychological setting for people who are going to invest their money knowing that they can adjust their prices in the marketplace and sometimes they will do better and sometimes they will do worse, but there is at least the hope of return on their investment.

Mr Marchese: Mr Larson, you acknowledge and we acknowledge that the tax differential between rental buildings and, let us say, the single-family dwelling is quite high. I think you appropriately said that if you're going to fix that, the province should do it. It is magnanimous of the provincial government to say, "We've given the tools to the municipality," but if the city all of a sudden finds itself with that tool, it will say: "How do I deal with this differential? If I reduce the level of taxation of these rental buildings, I've got to make up that differential somehow. Am I then going to pass it on to the homeowners?" Do you think the homeowner will be happy to receive the extra shift in property taxes? Because if you're taking money from somewhere, you've got to make it up, do you not agree?

Mr Larson: I agree with you. I think on an individual basis that any single-family homeowner, including myself, would be upset that their taxes had gone up because of that kind of adjustment. On the other hand, if I was to think about the reason for it, so that the people

who are in apartment buildings don't end up paying a greater share of the taxation burden because they're renters rather than being able to own, to me that's something I would be satisfied with as an explanation.

Mr Marchese: I appreciate the spirit of your generosity in this regard, but I suspect a lot of homeowners are not going to feel that way. Because many of them will feel they're overtaxed, they can't afford it now, so they have a problem. The municipality has a problem, but the province is saying, "We've given you the tools, now you go and fix it." I think it's problematic is the point I wanted to make.

The other point you've raised, having to do with how we create choice and a competitive market and all of that, you give emphasis to the fact that once you get rid of this vast bureaucracy and red tape which this government is willing to provide for you, investors will all of a sudden start building. Mr Lampert, the economist they hired, says it's not so simple. In fact, he says there is a \$3,000 gap per unit to build versus what people can afford to pay. That's why the industry isn't building, really. It's not the red tape. It's a small factor, although some of them want to say, "Yes, it's a big factor," or "It's part of a continuum, we need it," but it's really a small factor. They're not building because there's no money, because people can't afford to pay what they need to develop that. We really have a bigger problem here. I'm not seeing the private sector building, and it's not because of the red tape. Would you agree with that analysis or do you disagree with it?

Mr Larson: I would disagree with you, but I respect your opinion.

Mr Marchese: It's not even mine. Greg Lampert is an economist the Conservative government has hired. He admits in another study that he's done called Prospects for Rental Housing Production in Metro that people who own existing buildings do fairly well versus how they do with newer buildings. There's a rate of return that's higher with older buildings.

Mr Larson: Yes.

Mr Marchese: He says that, and he says that to build new buildings is costly. So I'm not sure it's the red tape that's the problem here. I'm not sure this bill is going to answer it, and they admit this. There are a lot of other things that have to be done. Mr Gilchrist, who is not here at the moment, says that part of that picture is the equalization of property taxes. Mr Lampert speaks to that. That's one of the things, but it's tough.

What do we do in the meantime in terms of building housing for a whole growing number of people who are being impoverished, who are either poor, working poor or becoming impoverished in this economic climate? What do we do? What are you going to do?

Mr Larson: In addressing the previous speaker, you raised the question and hoped that I could perhaps answer it for you. I had the opportunity of thinking about it. I certainly think that the private sector isn't going to come forward and provide that social housing. I think

you have to deal with it from a provincial point of view of finding the people who are in need of income to afford the housing that the private sector can supply and you're going to have to devise some kind of policy at the provincial level that supplements their economic means to afford the housing.

Interjection.

The Chair: Thank you, Mr Marchese. Thank you, sir, for coming.

Mr Marchese: I was just going to complete it for him.

The Chair: You were going to complete it for him. I'm sure you would. You'll have to complete it with the next delegation, unfortunately, Mr Marchese. We've run out of time.

THUNDER BAY

COALITION AGAINST POVERTY

The Chair: The next delegation is the Thunder Bay Coalition Against Poverty. I'm going to let your president, I assume, introduce everyone. I have four names: Ms Beulah Besharah, Ms Barbara Carignan, who is the treasurer, Ms Jean Holyk, who is the vice-president, and Ms Chris Mather, who is the coordinator. I probably pronounced all of your names incorrectly but I'm sure you'll help me out. Welcome to the committee.

Ms Beulah Besharah: Thank you very much, Mr Tilson. I'm Beulah Besharah and mine is the only name you mispronounced.

I'm very happy indeed that we have just this month produced our Tin Cup Times, with its heading "Housing for the Homeless." You will note that it's included in your packages.

The Thunder Bay Coalition Against Poverty is a non-profit community organization concerned about the depth and extent of poverty in our society. The majority of our members are people whose incomes fall below the Statistics Canada poverty lines. Most of them are on some form of social assistance. One of our primary activities is the operation of a food bank at which we serve approximately 600 people a month. It's from our contact with these people and our knowledge of the difficulties they face that our concerns with Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies, arise.

As the proposed legislation is concerned with tenancy, we wish to begin our discussion by providing this committee with information about rental housing in Thunder Bay. We believe the provision of such contextual information will assist the committee members — all of them, not just one or two of you — in evaluating our submission and will provide them with an understanding of some of the housing difficulties faced by people with low incomes in Thunder Bay.

When examining the cost of housing in Thunder Bay, it's not sufficient to include only the actual rental charge. Our severe winters and the concomitant high heating costs necessitate a more sophisticated analysis. Our

weather results in tenants in Thunder Bay having the second highest shelter costs in Ontario. On August 5, 1997, we contacted the Canada Mortgage and Housing Corp and were told that in Thunder Bay, the average rental cost of a one-bedroom apartment was \$530, the average cost of a two-bedroom apartment was \$672 and the average cost of a three-bedroom apartment was \$809. None of these rents include the cost of utilities, which, as we've just stated, are very high in our city.

As of July 31, 1997, there were 1,538 families waiting to be placed in rent-geared-to-income housing. This is an artificially low figure. Since the cancellation of 13 non-profit housing projects by the current government, people with low incomes often do not register on the waiting list, believing it to be an exercise in futility.

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Having provided some context, we will now turn our attention to Bill 96. In this submission we intend to confine our comments to section 200 of the bill. We have four sets of concerns.

Human rights: We have three points to make in this part. Housing is a basic human right. This right is codified in the International Covenant on Economic, Social and Cultural Rights, 1966, to which Canada is a signatory. The covenant states, "The states party to the present covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." It's surely inherent in this statement that disadvantaged and poor groups have an equal right to the security described in the covenant.

Our second point: The Ontario Human Rights Code includes the provision that the receipt of social assistance cannot be used to discriminate against a person. Legislation which permits the use of tenant screening based on income is a clear violation of this provision in the context of housing.

Again, contrary to Ontario's Human Rights Code, section 200 will allow discrimination against several other identifiable groups, including but not limited to the working poor, the majority of single mothers, the young, people with disabilities, people living with AIDS, first-time renters, members of Canada's first nations, immigrants and refugees. We say this because it is our experience in Thunder Bay that members of these groups are disproportionately represented within the low-income community.

Let's continue with tenant selection. Obviously private landlords should be able to make a reasonable return on the money they've invested in their properties by minimizing the possibility of a tenant defaulting on rent. Again, obviously it's reasonable for a landlord to institute tenant screening as a safeguard against bad debt. Credit checks and rental histories are good ways to assess tenants. It is the specific inclusion of level of income as a mechanism to discriminate against prospective tenants

which we find unreasonable. We find it unreasonable on six grounds:

(1) Income is not an accurate predictor of tenant default.

(2) People on social assistance, and others with low incomes, are less inclined to enter into a tenancy agreement they cannot afford because the costs of moving, of the first and last months' rent and of hook-up charges for utilities are outside their budgets without months of preparation. Assistance with such costs is one of the most frequent requests for help that we receive.

(3) People on social assistance have no higher record of defaulting on rental agreements than any other socioeconomic group. In fact, our experience with the people we serve is that they place paying their rent above other financial commitments. It's not possible to live on the streets in Thunder Bay in the winter.

(4) If discrimination on the basis of income is allowed, it seems likely that the widely quoted 30%-rent-to-income rule would be used as the mechanism of discrimination. This rule will effectively exclude social assistance recipients from renting. We will return to this point later in our submission when our co-ordinator Chris Mather will be reading.

(5) Living in a university and college town with a fluctuating pool of renters, it has been our experience that landlords are more likely to discriminate on the basis of income when the vacancy rates are low. This is precisely when disadvantaged people are at greatest risk of not finding suitable housing.

(6) It has been our experience that our members who run into difficulty in paying their rent do so because of changes in their lives: job loss, illness etc. No amount of screening for income at the start of a tenancy will protect a landlord from such situations, which often occur after a home has been rented. We would be remiss if we left this point without indicating to the government members present that the 21.6% decrease in social assistance payments instituted at the start of their regime was directly responsible for dozens of our members being unable to pay their rent. A survey we conducted at our food bank indicated that within 12 months of the cut to welfare, a full 60% of our customers had had to move to cheaper accommodation.

Ms Chris Mather: Good afternoon, everybody. I'm Chris Mather, the coordinator for our group. The next section of concerns is the effects of Bill 96 on social assistance recipients.

As we noted above, if the common 30%-rent-to-income rule is used to decide if a person can afford an apartment, no one in this city on social assistance would qualify as a tenant in private rental accommodation. The maximum monthly social assistance payment which a single person can receive is \$520. The average cost of a one-bedroom apartment is \$530, which is 102% of such a person's income. The maximum monthly social assistance payment which a parent with one child can receive is \$957. The average cost of a two-bedroom

apartment is \$672, which is 70% of such a family's income. For every income level of social assistance, the percentage of rent to income exceeds the 30% rule. Our local calculations are consistent with the conclusions arrived at by Dr Michael Ornstein in his Ontario-wide study, to which we believe this committee has already had access.

This section is concerned with the effects on the province and municipalities. Section 200 will cost the taxpayer money. We have three points with which to support this assertion.

(1) Even without section 200, it is an unpalatable fact that some landlords in Thunder Bay discriminate against people with low incomes, and social assistance recipients in particular. This already costs the taxpayer money in two ways: (a) through the costs of the operation of shelters to which homeless people resort for housing, and (b) because those who cannot find affordable housing are forced to rent higher-priced accommodation, thereby increasing the shelter costs portion of their welfare allowance.

(2) If Dr Ornstein's and our local calculations are correct, fully 100% of people on social assistance in this province would be at risk of discrimination by landlords who apply the 30% rule. Caring for even a small increase in the homeless caused by this discrimination is surely contrary to the government's much-quoted credo of "doing more for less."

(3) The costs of caring for homeless people are not limited to the provision of emergency shelters. They include, but are not limited to, increased health care costs, rising crime rates and increases in educational difficulties for children living in shelters. Further, this government subscribes to the fallacious belief that large numbers of people remain on social assistance in preference to being employed. We know from firsthand experience the difficulties faced by people in getting a job when the only address they can provide is that of a shelter. We have two recommendations to make:

First, that the government remove the phrase "income information" from section 200.

Second, that the government increase the shelter costs portion of the social assistance monthly allowance to more accurately reflect the shelter costs in Thunder Bay. Such an increase would be consistent with the International Covenant on Economic, Social and Cultural Rights, which includes the phrase "continuous improvement in living conditions." Such an increase would also be consistent with the throne speech delivered on September 27, 1995, on behalf of this government, which on page 5 promised to accommodate the needs of the north in the delivery of services. It said that local input would be sought. We have provided this local input on shelter costs in Thunder Bay to government committees conducting public hearings in Thunder Bay on five separate occasions, and we would now like to see the promises of the throne speech put into action.

We have one proviso to make in regard to the use of credit checks as a tenant screening mechanism. There are people who have no credit record, such as immigrants, newly separated women and young people. Some of these people will also not be able to find a guarantor. The absence of a credit record or a guarantor should not be viewed as being the same as a bad credit record.

Summary: In conclusion, the Thunder Bay Coalition Against Poverty is concerned about the use of income information as a way to discriminate against tenants. We believe that it is contrary to the Ontario Human Rights Code, that it is an inaccurate assessment tool of tenant reliability, that it will exacerbate our members' already hard task of finding suitable housing, and that it will cost the province and the municipalities money. We recommend that the phrase "income information" be removed from section 200 and that the shelter cost portion of social assistance payments to Thunder Bay residents be increased.

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One of the activities we undertake is to teach our members how to evaluate legislation. One of the first questions we advise them to consider is, "Who benefits from this?" Let's ask that question now.

Does section 200 benefit low-income tenants? Obviously not. It leaves them with no recourse if they are discriminated against by landlords on the basis of income.

Does section 200 benefit society? Obviously not. It increases the risk of discrimination being allowed in the province.

Does section 200 benefit the taxpayer? Obviously not. It will cost them money.

The only group which will benefit from section 200 is landlords with extensive property holdings. Presumably this is why such lobby groups as the Fair Rental Policy Organization of Ontario have been so assiduous in seeking the legalization of discrimination on the basis of income.

We would like to draw the attention of the government members present today to the introduction to the Common Sense Revolution document, which states, "Our political system has become a captive to big special interests." We would ask you to free yourselves from such "big special interests" and amend section 200 in the interests of ordinary people.

Thank you for your attention to this presentation.

The Chair: That concludes the remarks of the group? Thank you. There's time for questions.

Mr Gravelle: How much time, Chair?

The Chair: We've got to share about six minutes, so two minutes each.

Mr Gravelle: Thank you very much. It's a terrific presentation. You brought forward some points that I think need to be made. One that's not quickly thought of is the fact that there are indeed additional costs in terms of northern Ontario and Thunder Bay in terms of heating costs and everything else. Probably that's something that

isn't brought forward enough. It makes a difference and it should be considered, I think, especially when the government talks about serving the needs of the north and listening to the needs of the north.

In terms of section 200, this is one that clearly this committee has heard a great deal about. Keith Norton, head of the Ontario Human Rights Commission, has spoken about this, how it is discriminatory and should be removed. I sure would be interested and hopeful in hearing even our parliamentary assistant say this is one section they will be repealing. I would even argue that perhaps this is no particular benefit to landlords either. They're going to be losing the opportunity to actually have very good tenants by using this in a discriminatory manner. The fact is, as you say, if you have the credit history — although your caveat is important on that as well in terms of those who don't have a credit history, that literally the rental history should be enough. If you've got a credit history and you've got a rental history, why do you think the government would want to put this particular section in? What would be the purpose for putting this in when the rest should be sufficient?

Ms Mather: Your question is, why does the government want to include that section? I guess my feeling on that would be that the government since election has consistently acted in a way that benefits those who profit from our economic system, that they are supported by and encouraged by people with large amounts of capital and who benefit from the legislation that they choose to pass. I can't think of any logical reason, and so I'm forced to turn to a political-economic reason.

Mr Gravelle: There's certainly no question that in terms of people who are renting accommodation in a building, if you base it on income I think it's probably just as easy to find people who may appear to have a substantial income but who may not necessarily be the best people to rent to. But in terms of a credit and rental history, that should be sufficient, certainly, and this section is clearly discriminatory.

Mr Marchese: I want to thank all four of you for the submission and to congratulate you on the focus that you have given to this particular issue. I think a lot of people are failing to see that this section will affect more people than we have cared to sort of give a percentage to. It is a big number of people who would be affected by this. I appreciate the focus. Instead of sort of hitting all of everything else that's in this bill, this is an important one, because housing is a human right and this section will affect the human rights of many people. Your suggestion to remove income information is a very helpful one.

You've done a good analysis. Dr Ornstein has done a good analysis. In my view, your analysis is important as well.

You've raised the point that it's an inaccurate assessment tool of tenant reliability. Others have said as much. "It will exacerbate our members' already hard task of finding suitable housing." Governments have to worry about people and you have raised that concern. I hope

they will not simply take care of the interests of those with money, but of those without. I appreciate it.

Ms Mather: One of the things that concerns me so much about the legislation we have seen passed since this government was elected is a fallacious belief, in my opinion, that we need to return to a time when the private sector was able to take care of the social needs of our community. The truth of the matter is that private charity and the private sector were never able to take care of all the needs of the disadvantaged of our community. This is why we have people living in the depths of poverty, people unable to seek health care. We need to somehow go back to thinking there is a role for government, because it's unfair to expect the private sector to take care of all our social needs.

One part of my job is to do fund-raising for our organization. People who give us money tell us they're getting 20, 30, 40 letters a month requesting money. The private sector is not able to bear the load of the government's responsibility and it's time we began to recognize that again.

Mrs Julia Munro (Durham-York): I certainly want to join with the others in thanking you for making this presentation. I want to come back to the one issue that has created a lot of discussion, and that is section 200. One of the previous deputants made reference to the need for trying to strike a balance, because one of the issues that became very clear across the province, perhaps not in Thunder Bay but provincially, is the shortage of rental accommodation, how to get to that issue and how we can create legislation that will provide that kind of framework for more investment in that field.

I want to come back to that issue of the balance and the question of the options that you recognize are there in section 200, the notion of credit, the rental history and income. You made reference to the fact that there might be circumstances where the credit — for instance, a woman who has just left an unsatisfactory relationship may not have a credit history; someone who is a first-time renter obviously doesn't have a rental history. You also recognize the fact that people do ask about income history at this point.

My question then is, do you see validity in some kind of option here in terms of what kinds of things landlords should be able to ask?

Ms Mather: The issue is one of prejudice and discrimination. Everybody in this room has prejudiced attitudes towards a specific group. Somebody in this room can't stand gays, somebody in this room can't stand social workers, somebody in this room can't stand social assistance recipients. The point is that we don't act on those prejudices. The point is if somebody inquires what your income is when you are seeking to rent their apartment and they don't act on that in a discriminatory fashion, that's the balance for me. I believe that's the point Mr Norton was trying to make too — I had access to his presentation — that the act of discrimination is the important thing. You can say a credit check is good and a

rental history is good. So let's call those supposition A, and they're good. Then we say that discrimination on the basis of income, B, is bad. Well, A and B put together make C, but because B is bad, C isn't good. Do you see what I'm saying? It's a very convoluted answer. Shall I try again?

1420

Mrs Munro: I guess my question really is, what then do you consider legitimate options for a landlord to ask?

Ms Mather: What do I consider legitimate things? I consider that a credit check and a rental history are legitimate things for a landlord to ask.

Mrs Munro: But you do recognize that sometimes those are not going to be available.

Ms Mather: That's correct.

Mrs Munro: Then does the landlord discriminate on the basis of those things not being available? This person could have an income that would allow them to be a good tenant.

Ms Mather: Hey, if somebody doesn't have a credit record and somebody doesn't have a rental history, but they've got an income and the landlord agrees to rent to them, I've got no problem with that.

Mrs Munro: But then you have to give them the option —

Ms Mather: Of course they have to ask if they have income. We're not saying don't ask, we're saying don't discriminate. This is the point that's been made by Mr Norton too.

The Chair: Ladies and gentlemen, I know this topic is just starting to get warmed up, but the problem is we've run out of time and I regret to say we have to end it. Thank you very much, Ms Mather and company, for coming to the committee this afternoon and giving us your presentation, particularly on this issue. It's too bad we can't go on, but we're out of time.

Ms Mather: Thank you. We hope you enjoy our newsletter, the Tin Cup Times.

The Chair: Thank you very much for giving it to us.

PEOPLE ADVOCATING FOR CHANGE THROUGH EMPOWERMENT

The Chair: The next presenter is Leonard Maki. Welcome to the committee.

Mr Leonard Maki: I don't have a written submission, but I am here to tell you that I'll pick it up right from where the Thunder Bay Coalition Against Poverty left off, I believe.

I want to address section 200. I believe that section will do nothing less than create systemic discrimination for people on social assistance.

I work for a group that is what is known as a psychiatric consumer survivor organization. All our members are people who suffer from serious mental illness. The majority of them are people who are on FBA. Some of them have not qualified for FBA and are on GWA.

I know the government is going to implement some reforms to FBA, and to a large extent we think those reforms look fairly positive, but I've watched people be turned down by landlords because the minute they say they are on any kind of social assistance, landlords do not want to deal with them. If this legislation goes through as passed, they will have absolutely zero recourse in the law to fight for their basic human rights. Do you want to do that to people? Sometimes people have to lie.

In 1992 PACE produced a report. The title of the report was *Surviving in Thunder Bay: An Examination of Mental Health Issues*. I'd like to read just a few of the comments people have made in here in regard to housing issues.

The preface says: "The most common problem experienced by respondents" of the survey, of the focus groups that this is part of, in regard to housing "was renting on a limited income. Respondents felt a limited income restricted their housing choices, and they often had to settle for substandard living conditions."

Here are a few quotations: "The problem is getting something in decent condition that you can afford." Here's another one: "It limits what I can rent and what I can't, and which location I can live in." Here's another good one: "There's a stigma around low rentals. Once they find out that that's where you're from, that that's where you're staying, it's almost like you're branded as a certain individual or a certain kind of individual. If you wind up living in a rat hole and you wake up every morning, it's like you're in the same dive, and you go to bed every night and you're in the same place. You start to lose the joy of life. You lose the spark that makes you want to do something and you start to slack off, and then little by little, hygiene goes, then your eating habits go, and the next thing you're right back to where you started off. You know you're just as bad as you were before you got help."

Here's a very telling one: "I have to lie to my landlord to get a place to live, like tell him you're on a disability. If it's not visible or physical, they don't take you. Even slumlords won't take you, because they don't want psychiatrically ill people living in their housing."

I don't agree that it's proper to lie to people about anything, but some people feel that even currently they have no choice. If you take away the sections protected in the Ontario Human Rights Code, they will have no recourse.

I believe that getting rid of rent control will also make it harder for people to find affordable housing. Often when people get ill they end up institutionalized. The 30-day provision for landlords to take over property is also problematic for that. I don't have a solution to that. I recognize there are two sides to both issues. I've heard a lot of very eloquent presentations today. Even people who represent the homeowners' association recognize that people with lower incomes have to have decent housing.

I believe Mr Larson was asking at the end of his presentation what the government can do to help people. He spoke of quality and choice. But people on social assistance have very little choice. When people speak of vacancy rates, I always wonder what prices they're talking about. Are we talking about vacancy rates in affordable housing, in housing in the \$300 or \$400 range, or are we talking about the \$800 or \$900 range? Somebody on FBA currently simply cannot afford anything above \$300 or \$400. I know that people do dip into their daily living money to find basic shelter.

You heard from Keith Milne today from the Shelter House. I know that people I help to support sometimes end up there. When they're there, sometimes landlords take over their property. If people leave their property vacant without notifying people, a landlord may feel they have every right to step in if rent is owing. But if somebody is ill, they might not have the presence of mind to notify their landlord, they might not have a family member who will step in, they might not have done the proper legal things beforehand, particularly if this is the first time they've become ill. We were talking about people with, for instance, bipolar affective disorder, also known as manic depression, which can affect people at any point in their life.

Mr Milne pointed out that not everyone who is poor stays that way. Well, not everybody who suffers from psychiatric illness stays sick, and not everybody who suffers from those illnesses is from the lower economic scale, but becomes that way. We have membership from right straight across the socioeconomic strata.

That is basically all I have to say. I really hope you get rid of this part of section 200. If you believe in basic human rights, you will recognize that it will do nothing except create a situation where people have no recourse. I would recommend the exact opposite, that you strengthen the Ontario Human Rights Code. I will certainly entertain any questions.

Mr Wayne Wettlaufer (Kitchener): Thank you, Mr Maki, for appearing before us today. I think there has been a general misconception that we as a government are going to allow discrimination under Bill 96. There is no intent to allow discrimination. We are not changing anything that presently exists in terms of allowing the landlord to ask for income information. All we are doing is clarifying.

What is important here is that if there is an area where you feel or have evidence that someone has been discriminated against, then you should bring it forward, follow the process, and we will take action to the full amount allowed by the law.

I know what you're saying, that landlords have been allowed to "discriminate" on the basis of a prospective tenant being on family assistance. They haven't been allowed. There perhaps have been some who did discriminate on that basis. Some of the smaller landlords will excuse that by saying, "We can't afford to take a risk because we only get 2%, 3%, 4% or 5% return on our

equity, and this is our pension money, this is our life savings." Nevertheless, we are not going to allow any discrimination. I want to make that perfectly clear. We are not allowing any discrimination; we're just clarifying.

Mr Maki: What do you mean by "clarifying"?

Mr Wettlaufer: We are saying: "This is what is going on. This is what is permitted now. We are putting in writing what will be permitted." Discrimination is not shown in section 200.

Mr Maki: So you're telling me that it will remain against the Ontario Human Rights Code to directly ask somebody if they are on social assistance.

Mr Wettlaufer: No, they can ask the question, but they can't deny housing on the basis of the answer.

1430

Mr Peter L. Preston (Brant-Haldimand): The last presenters said they agreed with this section as long as it was not used to discriminate against people. All right? If you were a landlord, what questions would you want answered to make sure your prospective tenants were going to treat your place properly and pay the rent?

Mr Maki: I would ask them if they can afford it. I don't know anyone who wants to move into an apartment, have to pay first and last months' rent, which is a very difficult thing for people to come up with when they live on social assistance, and then have to turn around and move out.

Mr Preston: There are some horror stories around where people go in and give a bum cheque and it's six months before they can be gotten out again. There are those stories around. There are two sides to it, no question. How do you propose, as a landlord, to guarantee that won't happen to you?

Mr Maki: I am not against doing credit checks or references. Quite frankly, even that poses problems for our membership because often when they have been ill they have done things, they have walked out. We recognize that and it's very unfortunate that these kinds of things happen. People are quite frank about it and they have to live with that. I wish it weren't that way, but sometimes in a small percentage it does happen.

But I don't know of people, and I've helped move a lot of people I know, who willingly go into a situation where they move what belongings they have, get set up, finally start establishing a home — a home to people is a very special place. They don't want to have to move into a place they know they cannot afford. The majority of people I know, as I said, put more than their shelter allowance into their monthly rent as it is and they do so willingly — maybe "willingly" is the wrong word — because they would rather do that than live in a substandard house or sometimes having to share dwellings with people, sometimes not a healthy choice for people either.

The Chair: Thank you. Our time has expired.

Mr Preston: I just want to —

The Chair: I know you'd like to go on but I'm afraid it's Mr Gravelle's turn. He'd get mad at me if I didn't let him speak.

Mr Gravelle: Go ahead.

Mr Preston: I just want to make clear what your answer is. It's okay to ask about income as long as you don't use that for discriminatory purposes; it's okay to get a credit check as long as you don't use that for discriminatory purposes. Is that correct? Is that what you're saying?

Mr Maki: I am saying I am concerned about the provisions and their interpretation. The way I've read it is that it will allow landlords to systemically discriminate. I am not opposed to credit checks.

Mr Gravelle: I think part of the problem is, even in Mr Wettlaufer's clarification, you set up a system where if the answer is, if there is discrimination as a result of this — which acknowledges the possibility that there could be discrimination as a result of it — and you say, "We'll deal with it then," that just seems to me to be a justification for removing it. If indeed there is a possibility as a result of that section being in there that discrimination could be practised, clearly it's far more difficult to deal with it afterwards and it shouldn't be dealt with that way.

This section seems to be something that has been a major issue at all the hearings. We have the head of the Human Rights Commission coming in, being very concerned about it and we have had others. Even to have your clarification to say, "If it happens, we'll deal with it," that makes one probably think you therefore acknowledge that the possibility exists, so it should be removed. It's a major issue, one that Mr Maki feels about, T-CAP feels about the same way, various other groups feel the same way. Therefore, I hope you're considering removing it just exactly on the basis that you described it.

I think probably this section 200 has been a major element today, but in terms of the issue of the removal of rent control, which is ultimately what's coming as a result of this, there's a great deal of movement frequently for tenants, which means that if you move out of an apartment and a vacancy occurs, the landlord can raise the rent again. What impact do you think just simply that would have on people who already, as has been pointed out very clearly, are paying, almost all of them, more than 30% of their income?

Mr Maki: Thank you for that question. I think there is the potential for significant impact. There is a social need for affordable housing. If landlords raise the rent every time an individual moves out and choose to move it above what people on social assistance can afford, where will they go? The people I know are dealing with a lot of issues already. One of the issues that society is dealing with right now is deinstitutionalization. We need affordable housing for people. If landlords do choose to raise rents above what people can afford, I don't know where people are going to go. I think people will

consider suicide even because they would rather not live in hellholes. That might sound like an outrageous statement but, believe me, that is the truth and the reality for some people.

Mr Gravelle: You raise an important point in terms of people's desperate need, but I also think it's significant that you recalled what Mr Larson from the home builders said too, that indeed there is a need for social housing and that it should be provided by the government, because it's probably not correct to expect the private sector to come into it. With deinstitutionalization taking place the need for housing is greater than ever for those in need, and I think you've made a great presentation.

The Chair: Thank you, sir, for coming.

1440

NORTHERN WOMEN'S CENTRE

The Chair: I understand the next delegation is not here. I'll call their names. Gwen O'Reilly, coordinator from the Northern Women's Centre. Is she here yet? Susan Ward, community liaison, Faye Peterson Transition House. Gwen O'Reilly is here, just in time. Are you prepared to start now, Ms O'Reilly?

Ms Gwen O'Reilly: I guess so.

The Chair: If you wish, there's another delegation that could go first.

Ms O'Reilly: It doesn't matter. That's fine. I apologize for my lateness.

The Chair: You're right on time, perfect.

Ms O'Reilly: I work as the coordinator at the Northern Women's Centre. We deal with all kinds of women. Mainly the issues we focus on are poverty and violence, although we try to assist women in all aspects of their lives and that leads us to work in a great many sectors. We do economic development work as well as a number of different community development projects. We also do support and advocacy work for individual women, and that's one of the reasons I'm here, because I often get a chance to speak to women about their housing situation and the kinds of factors that affect them in their lives.

Today I realize you're all here to talk about Bill 96 and we're specifically interested, as I'm sure you've heard before, in section 200, which is about the inclusion of income information as a factor for landlords to use in determining prospective tenants. If my presentation seems a bit general, it's because we are generalists and we deal with women's lives in a holistic sense. Although this is one piece of legislation, there are many factors in women's lives and many different kinds of legislation right now that are going to affect women in difficult ways. I hope you take that into consideration.

I want to talk a bit first about poverty. All levels of government in this country have recognized, at least to some degree, that women in Canada and elsewhere experience a tremendous amount of economic disparity, especially with regard to their family and marital status.

There have been various attempts to redress this balance, things like pay equity, employment equity, Family Benefits Act, child support, child tax benefits, various human rights and labour standards that concern gender and marital, family and economic status. The United Nations has also noticed the disproportionate number of women and children living in poverty in Canada.

Today I want to talk about this particular legislation. Any legislation that's based on minimum income criteria will affect women disproportionately. I don't know if you know the statistics, and I'll spare you them, but women are the poorest group in our country and correspondingly this province. Aboriginal women, other women of colour, younger women, older women, lesbian women, immigrant women, women with disabilities and sole-support mothers are poorer still, and they all face double or triple discrimination when they are seeking shelter. Most of the people receiving social assistance are women and children; in fact women are overrepresented in most groups of low- and fixed-income people. Women who are not currently low-income are still at high risk of poverty. It can and does occur suddenly for women as a result of a divorce, a dependent child, a disability or a pink slip.

Women regularly report negative reactions from landlords when they reveal they have children and/or are in receipt of social assistance. Racism and other forms of discrimination are common, and in northwestern Ontario first nations people bear the brunt of this behaviour. Allowing landlords the ability to select prospective tenants on the basis of income will effectively allow them to also discriminate on many other, albeit prohibited, grounds.

In 1995, the Northern Women's Centre conducted a survey of women receiving social assistance in the area, many of whom were single parents: 40% of our respondents said they could not afford adequate shelter. This was before the 21.6% cut to social assistance benefits. Fully a third of these women reported that they would have to move from their current homes once the cuts came into effect. If section 200 in Bill 96 takes effect, women with children, especially sole-support mothers, will have tremendous difficulty finding affordable housing.

Lone-parent women in all income brackets pay much more than 30% of their income for shelter, that's a fact. Lone-parent women are also more likely to be on social assistance, which means many will encounter negative stereotypes not only about their family, their marital and economic status, but will also have to face the stigma of being a "welfare bum," or in this town, a "welfare cheat." Women already have difficulty obtaining housing as a result of these attitudes, and many do not have the ability to challenge an unfair decision by a landlord. If Bill 96 comes into effect intact, many single mothers and their children and other low-income women will find themselves homeless.

The issue of credit checks is another big issue for women. I'm only going to touch on it here. Credit is a complicated thing. If you were married or partnered for some time, any of your credit records may be in your partner's name, not in your name. Women generally have difficulty getting credit. An irresponsible partner may also leave them with a bad credit rating through no fault of their own and that should be taken into consideration by landlords but often isn't.

The other issue I want to deal with with regard to women and housing is violence. Any measure which makes women more vulnerable to the whims of landlords will increase the incidence of sexual harassment. Women already report that many male landlords will make sexual innuendoes or request sexual favours, sometimes as a condition of tenancy. If women are desperate for shelter, they may find themselves in the age-old feminine situation of "put out or get out." This may be a particularly difficult decision if they have children and no place else to go.

Poverty and violence are intimately connected in most women's lives. Being poor means fewer options, and women often face the difficult choice of staying with an abusive partner or raising their children in extremely reduced circumstances. I have spoken to a number of women who have returned to abusive relationships solely for economic reasons. Restricting shelter options for women will result in more women and children at risk, especially now that transition houses and second-stage housing projects have experienced funding cuts.

When women leave an abusive relationship, they do it in a hurry, sometimes in secrecy if they fear for their lives. They don't have the luxury of waiting for that perfect apartment, and often end up in expensive or inadequate accommodation. Women are also most at risk immediately after leaving a violent partner. They need security and often anonymity, which may mean access to a security building and/or the ability to change the locks on their door. Any legislation that compromises these requirements will compromise women's lives.

That goes not only for women leaving abusive relationships but for women in general. Women often have a higher need for security. The world is a dangerous place for women and many low-income, inadequate housing situations don't provide that.

Just to put this all together: The impact of including income information in Bill 96 will be devastating enough for women and other low-income people. Combined with other changes, such as the loss of rent control, the loss of subsidized housing, the reduction of affordable rental stock, and now, with the Social Assistance Reform Act looming on the horizon which is going to mean many changes for both homeowners and people in general on social assistance, this will result in a full-scale housing crisis for low-income people. Many people, including women with children, will lose whatever stability they now possess, and will have fewer crisis services to rely on and few or no avenues of appeal. This government is

legislating misery for vulnerable people in all sectors. Adjusting the Human Rights Code to allow landlords to discriminate on the basis of income is a very slippery slope, and hopefully not an indication that other rights will be undermined. I would recommend that you don't do it. Thank you.

The Chair: Thank you. We've probably got some questions.

Mr Gravelle: You just walked in when you were asked to speak so I should certainly let you know off the top that your concerns about the bill are being strongly expressed by other presenters this afternoon; specifically section 200 has been discussed at great length. I think it's a pretty common strong feeling that indeed this is a section that should be repealed and, as has been said earlier but obviously you know, the chair of the Ontario Human Rights Commission, Mr Norton, has made a presentation and made it very, very clear as well.

1450

I think you bring out some other points that probably need to be discussed a little bit more, ie, that this is but one a number of actions that have been taken by the government that is making it, in essence, a more dangerous environment for many women and many single parents. I would just ask you if you could talk a little bit more about what the impact is for people being put into a situation where they simply, for a variety of reasons, can't find access to an affordable apartment, what that means in terms of their lives, being forced into a situation or remaining in a situation that is dangerous to them, to their children, whatever else. Are you seeing more of this as a result of what has happened in the last two years?

Ms O'Reilly: Certainly. If you're asking what the risk is to staying in an abusive relationship, the risk is death or serious physical or psychological injury to women and their children. We talk to women regularly who are either going back to or staying in abusive relationships. People are doubling up. They're looking for cheaper options. In some instances I've spoken to women who have been on social assistance in a relatively stable situation and have decided to go off it to a much more marginal economic situation, whether it's with an abusive partner or a low-wage, part-time job, because they can't stand it any longer. The system is too intrusive and too unworkable. There are many ways that some of the changes lately are putting women at risk both physically and economically.

Mr Gravelle: You mentioned as well an important reference that the Thunder Bay Coalition Against Poverty made about the fact that credit checks and rental histories are useful in terms of landlords but obviously there are some people who are simply — the government members will probably ask you, "Then what are landlords to do? How can they find out whether someone is going to be a good tenant?" Have you got any thoughts on that? That's certainly one of the questions they're likely to ask, so let's deal with it.

Ms O'Reilly: There has been lots of talk about welfare fraud in this town and elsewhere. I think in any system there's a certain amount of fraud and there are people who can pay, people who can't pay and people who won't pay. I think the people who won't pay are a fairly small minority and the size of their income doesn't reflect whether they will or will not pay. Sorry, I've lost my train of thought.

The Chair: Perhaps we will move to our next question.

Mr Marchese: Thank you, Ms O'Reilly. You'll have an opportunity to come to it, I suppose.

On the point of lack of affordable housing, I must tell you that I'm profoundly worried about that. The government has cancelled, as you know, 110 projects or so. The government is getting out of the housing business, they have said. They're optimistic, and they tell you this, that somehow the private sector is going to fix that.

I have learned from a number of things I have read that the private sector is not going to fix it. They will not build affordable housing because there's no money to be made. In fact they're not even building housing that is within a \$800 to \$900 range because that too is a difficult thing to do because there's not much money to be made out of that. The cost to build versus what they can recover creates a gap. So we're going to have a serious housing crisis that they will not admit to, that somehow they think this is going to magically happen.

I'm worried profoundly about housing. I think we will face a housing shortage in the future, and the people you are representing, speaking for, will face serious problems as a result of that housing right that will not be there. That's the one point.

On the other point about section 200, the essential point about this act is that it says in section 200:

"Section 21 of the Human Rights Code is amended by adding the following subsection:

"(3) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination is not infringed if a landlord uses in the manner prescribed under this act income information..."

This section says they can use income information, presumably in whatever way they want, and they don't have to worry about the Human Rights Code. So putting in income information allows landlords to discriminate without any remedy from the other party. That's the problem with this section and that's your worry too, is it not?

Ms O'Reilly: Certainly in so many words, yes.

Mr Marchese: I have to tell you this is my worry as well. It's a big worry of many and only now are people beginning to understand that this section, although it appears to be a minor one at least for the landlords, because they'd like to be able to have any means at their disposal to do what they want, when you look at it, affects a whole lot of people. I thank you for raising this

as one of the other issues that affects the community you represent.

Mrs Munro: Thank you very much for being here today to give us your views. As Mr Gravelle said, the issue of section 200 is obviously one that has created a great deal of concern. We've certainly heard that in a number of presentations today. He asked you about the fact that probably by the time the questions came around to the government side, someone would ask you about the kinds of options a landlord should have. I'm very concerned about recognizing the issue you raised about the fact that while credit rating is traditionally viewed as a legitimate method of viewing a person's ability to pay, clearly many women are in a circumstance where that's not a viable option. The question then becomes, if credit rating and rental history don't exist, what does a landlord do? What's fair to ask a landlord?

Ms O'Reilly: You've reminded me of the train of thought I lost earlier.

Mrs Munro: I thought I might.

Ms O'Reilly: Shelter is a necessity. People don't try to get it on a whim. First of all most tenants have to come up with first and last months' rent. For most of the women I know and work with, that's no small feat. I would say that's a particularly good indication of someone's ability or intention to pay. Also, people don't haul all their stuff around town, usually in borrowed trucks, repaint an apartment, change their mailing address and move their kids to a new school. Often women who are coming from abusive relationships need to change their address radically and keep it secret. People don't do those things lightly. It's not, "Let's see how many landlords I can take advantage of this month." It's, "I need a place to live and I'm willing to make these changes to accommodate that need."

The other issue is that people's lives change and women's lives certainly change dramatically and economically with their life circumstance: marital status, family status, employment. When you are marginalized to begin with, any change in life circumstance can affect your ability to pay or stay where you are very drastically, but no one is at fault for that and that doesn't mean that people aren't willing to pay. It means their circumstances are difficult and it's hard for anyone to predict that, including a tenant.

The Chair: Ms O'Reilly, thank you very much for your presentation.

FAYE PETERSON TRANSITION HOUSE

The Chair: The next presenters represent Faye Peterson Transition House. Their names are Susan Ward and Nadine Halona. Good afternoon. I've given both your names. Perhaps you could identify which is which.

Ms Susan Ward: I'm Susan Ward.

Ms Nadine Halona: I'm Nadine Halona.

Ms Ward: We are both here representing Faye Peterson Transition House and are pleased to have an

opportunity to put forth our concerns on behalf of the women and children we work with.

When I was listening to Gwen's presentation, I thought when we came up here all we really needed to say was "ditto," but there are many things we agree with and we'd like to give information from the perspective of Faye Peterson Transition House and the women and children we serve.

We are a regional shelter for abused women and their children in northwestern Ontario but we have been known to serve women from all over the world. How that comes about is that women will come to Thunder Bay and area from other countries. Their spouse would be abusive and that leaves them ineligible for any assistance. So we have had many women from countries all over the world staying at our shelter while we work with agencies such as the Northern Women's Centre and immigration to help these women be safe and eligible for benefits. Technically our catchment area is northwestern Ontario, but we are very flexible and our aim is to meet the need for the protection and safety of women and their children.

1500

In 1996 the house sheltered 116 women and 148 children. Seventy families were also turned away, but when we say "turned away" we mean they were referred to other shelters because we were full. Our average occupancy rate for 1996 was 112%.

The women and children we see will be very much affected by this proposed legislation. Just about all the families we've served require affordable housing. In Thunder Bay we will soon have a loss of approximately 700 subsidized units and more and more women are having to go to the private market to have their housing needs met.

We had a chart distributed that shows the changes in basic needs as of last October. You can see the reductions that have happened for that period of time. For basic needs a single person, in our case it would be a woman, would be allotted \$248. As of October 1 of last year it was \$195.22. Shelter allowance was \$414 and has been reduced to \$324.48 for a single person. If you look down under "Shelter," for a family of six it was \$859 and has been reduced to \$673.46. So there have already been huge reductions that have had a severe impact on the women and children we try to assist and help to better lives, lives where they can be assured of safety for themselves and their children.

One thing we are very concerned about is that the majority of women and children we see, as I mentioned, live below the poverty line: a single person receives approximately \$6,200 a year and a family of six receives \$14,469 a year. If rent controls were abolished, it would create a severe strain on people who are already taxed to the limit.

As it stands now, many of the women are forced to spend half or more of their income on decent, adequate housing for themselves and their children. Where does this money come from? Usually from the food budget or

from other government incentives such as the GST and the child tax credit, which aren't really meant to be spent on housing; they were meant to be a bit of a bonus. But the majority of this goes to help them meet their survival needs. In Thunder Bay, and I'm sure in other parts of the province and in Canada, everywhere we look we see the emergence of additional food banks and the working poor, while the women and children we see are the poor and the working poor. Increased rents are taking food out of the mouths of families. Women come to see us every day and this is the concern: What are they going to do with their rents?

What you pay for is what you get. There are those other than women who are lucky enough to have a subsidized unit. That means not having a security building where you can see who is at your door. That creates huge stress and is part of the reason why we had close to 3,000 crisis calls on our 24-hour crisis line this year. Women and children are living in terror because they can't be assured of safety in their own home. Perhaps if it was a security building it might be easier to feel a sense of safety, but security buildings usually have a higher pricetag.

We are very, very concerned because we have a listing we give out: 33 Reasons Why Women Stay in Abusive Relationships. One of the main reasons is that they don't have the assurance of economic security. They may have been out of the job market for a number of years raising their children, or they may not have an educational level which makes them have marketable skills, so they think once, twice and more than that about leaving a situation where their partner might be making anywhere between \$40,000 and \$70,000 and perhaps going and living with their children where they might realize \$10,000 a year. Housing is one of the most crucial points of a woman being able to leave, knowing that she will get this security. Hopefully none of us wants to increase the incidence of women staying in their homes because they can't be assured of having a safe place to make a new home or know they'll have enough money left for food and shelter.

It's an attitudinal thing as well. For persons with any difference, be it a visible disability or a non-visible disability, seniors, anyone who has a difference, if these things go forth and further discrimination can be made based on income or based on if they think the person would be credible and reliable, then it would create great hardship.

Just the other day, and I don't often get this reaction, I went into a local restaurant to buy a gift certificate for my mother-in-law's birthday and I asked the manager, "Do you have gift certificates?" He said yes and I said, "I'd like to buy a \$30 gift certificate," and he said, "Do you have \$30?" I was very offended. Needless to say, I'm going to write to head office. The only reason I can think of that he asked that question was because I came into the restaurant using my wheelchair.

If that kind of discrimination can happen to a person such as myself with a visible difference, what is going to happen if you have a difference that is visible or with your credit line when you go for housing? It's a real concern and we want to be part of having a strong voice to say that no, we can't accept this because we'll be putting people out on the streets. We'll be putting people in danger and we will have women either not coming to shelters at all or coming and staying for an extended period of time because their needs can't adequately be met. We also don't want to see places such as shelter houses, which are excellent facilities, springing up because private accommodation can't be made. We are open for any questions.

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The Chair: Thank you, Ms Ward. Ms Halona, you have no comments?

Ms Halona: When Susan mentioned the shelter cost, that also has to include heat, hydro and water with the rent.

The Chair: That's the item under "Shelter"?

Ms Halona: Yes.

Mr Marchese: Thank you both for coming. I congratulate you on the work all of you in this room do. It's the most difficult work that some of you have to face. I tell you I couldn't do it because it would be difficult to have to face the kinds of problems you have to deal with on a daily basis.

The context here is that this government has cut 21.6% of people who receive social assistance. The context is that they've cancelled a lot of housing projects and they don't want to build any more. The context is the private sector is saying, "We won't build." They've said, "We can't build affordable housing." They've said that. The context is that this bill allows, through vacancy decontrol, for landlords to increase rents to as much as they think they can get. The context is that section 200 allows landlords to discriminate based on income information. Mrs Munro said: "If they can't do the credit check, what else can they do? Surely they need to look at income information." But that's their job. Their job is to say, "If a credit check is not enough, what else?" But if their answer is that they can discriminate based on income information, I find that a problem.

Mr Preston: Nobody said that.

Mr Marchese: That's what this section does. This section changes the Human Rights Code and allows landlords to in essence discriminate based on income information.

Mr Preston: That's a patent lie.

The Chair: Mr Preston, that's a bad word.

Mr Preston: That's right. I apologize for that. It's not correct, what you've said.

Mr Marchese: No, Mr Preston — he'll help you out in a second. This is the context and I don't know. I'm as worried as you are about what's going to happen.

Ms Ward: At the moment women within the shelter who apply for Thunder Bay Housing are exempt from a

credit check. But if they go in the general market, where they often have to look, for instance, to the best of my knowledge, if it's a single woman looking for a one-bedroom apartment with Thunder Bay Housing, they could wait for about a year.

Ms Halona: Six months.

Ms Ward: Six months to a year. Certainly women with children are very important, but does that mean that single women aren't important? They're the women who are waiting the longest time, and if they go through subsidized housing they don't have to undergo a credit check, but if they're in the private market it changes it absolutely. As Gwen spoke to the safety of women too, women come to us because they are fleeing for their lives; they are looking to make a new life to protect their children from abuse as well and waiting for housing that isn't there. So they get discouraged and go back home because they know what they have there and they minimize the beatings and the sexual abuse of themselves and their children and the emotional and financial end.

We have a huge concern because it's a big part of our population. I'm not sure of the absolute statistic now but a few years back we did a study. We have many people with disabilities living in Thunder Bay who have come to Thunder Bay because we have so many good services and we had a statistic of 17.5% of our population who were persons with disabilities. Our shelter is physically accessible to accommodate women with disabilities who may not have started out with a disability, but because of the abuse have become disabled. So they need accessible, affordable accommodation too, be it in the private market or subsidized housing. It's a huge concern because we don't know where it's going to go. In all honesty, if a woman asks us what to do, we can't say, "We can guarantee that you're going to get a place in a month or two." We can't say that.

Mr Preston: The suggestion that because of this section this government is going to allow landlords to discriminate is completely misleading. Mr Marchese knows of my abhorrence of discrimination. For him to suggest that I'm part of a government that is going to allow or condone discrimination, he knows better than that. This is not going to happen.

Mr Marchese: What does section 200 mean, then?

Mr Preston: Section 200 means that the landlord has the opportunity to question his tenant to satisfy himself that he's going to be paid for his accommodations. If he does not use that in a discriminatory manner, then there is no problem. The last three presenters who have been up here have said, "Yes, that's fine, as long as it's not used to discriminate."

Mr Marchese: But you know what happens, Mr Preston.

Mr Preston: To remove something because there's a chance of discrimination would suggest that there are certain races or religions that should be removed because there's a chance of being discriminated against. That's not correct. What we do is fight against the discrim-

ination, not against the problem, not against the situation. We fight against the discrimination, and that is exactly what this government will do under this section. We will not allow discrimination. We will allow people to get the facts, but they will not be able to use those facts to discriminate against somebody. Mr Marchese knows that and he likes to twist it.

The Chair: Mr Preston, you're out of time, I'm afraid. Mr Gravelle.

Mr Gravelle: As I said earlier — and Mr Preston and I had a brief private conversation about this — it still seems strange to me — and I don't want to take all your time — to put a section in that may lead to discrimination or can be used in a discriminatory way. Therefore, if that's the case, it shouldn't be in there. I would expect you to agree with that.

Ms Ward: We certainly do. As a matter of fact, I think just a couple of weeks ago Nadine had a situation where a private landlord was speaking to her about a prospective woman who was going to go in the house. I believe he was asking all kinds of questions and almost wanted a guarantee. Maybe you can speak a little more to that, Nadine.

Ms Halona: That's what he wanted. He wanted me to guarantee that everything would be all right, and I can't guarantee that. When a woman is in our shelter, everything is fine, and when she goes out, for whatever reason, if an abusive partner goes over there and smashes up her place, it's not her fault. He wanted me to guarantee him that everything would be okay. I couldn't guarantee that.

Also, with women having so many issues coming into the shelter, if they are discriminated against, they don't want another problem. They don't want to go and see Human Rights because they already have enough on their plate.

Mr Gravelle: Of course that's one of the other problems too. Your story about what happened to you, Ms Ward, in terms of the restaurant is a pretty awful story too. The fact is, this is also a government that has reduced staff, certainly in its own government, in terms of being able to do some of the work you say you want to do.

I know Mr Preston well and I believe he means everything he says in terms of this, but the fact is, if you don't have the people who can handle these situations, if you don't have the resources, you set up a situation where actually you can mean what you say but you can't deliver on it. That's one of the things that we're all concerned about.

In whatever time I have left, I just want to talk about affordable housing.

The Chair: You have none. I'm afraid your time is over, Mr Gravelle. Thank you very much, ladies, for coming. I don't mean to cut him off, but we really have time slots, and it's expired.

Ms Ward: We'd be pleased to speak to you at any time at a later date.

Mr Gravelle: I'll look forward to that.

The Chair: Thank you for that offer.

Mr Preston: It was made to him.

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VILLA STREET HOUSE PROJECT

The Chair: The next presentation is by Wolfgang Schoor of Villa Street House Project. Good afternoon, Mr Schoor.

Mr Wolfgang Schoor: Good afternoon. I'm happy to be here and I'm glad you've all made it, or some of you made it back. If it sounds as though I am biting my tongue, I just came from the dentist, so excuse me, please. Root canal, oh.

Mr Gravelle: You are on time.

Mr Schoor: I don't have any material to hand out as I did last time. However, I would like to make a brief presentation, because I feel it's very important, related to rooming-houses. The previous presentation that I made was related to rooming-houses. I have read most of the Hansards, the publications, and I didn't see where rooming-houses were considered at all.

I'm not so sure that the material I did bring with me is relevant but as a handout it may be okay so people understand what I'm talking about, and it will also perhaps verify that I speak with some knowledge in the area.

The reason I've talked about the Villa Street project — and this is the documentation that I have here — is that in 1988 I began on a project which specialized in housing people who have had a brush with the law, people who lacked the social skills, who could not live within the framework of a structured living environment, so for the last nine years now I have looked at people's behavioural patterns and where they actually take them. I have seen people on the streets and I have a database verifying the information that I have some ideas of how and why this will happen. In fact, one of the documents has just been published. One of the manuscripts has been published at an international ergonomics congress in Finland, which now is published in 50 countries, so I speak with some authority and knowledge of the subject.

When changes will occur in rent controls, if the past is any indication of what may happen in the future, I think we're heading for sheer hell, particularly for a specific group of people. Why would I say that? Well, there are all sorts of people who are predicting doom and gloom, but many people make a living at doing that. In my case, and in the cases of people who are like me, who are independent landlords, for us the problem is real. We have seen people who have just moved out a few weeks earlier and you read in the obituaries that they died. We've seen people hauled away by the medics, and by the police, in case they have a problem with the law. These are all the things that I can see happening as a result of changes within the streamlining of the conflict resolution system, and this is where my focus will be.

How will that affect people who are hard to house? How do people end up in a rooming-house? People who

live in a rooming-house are normally there because they're changing their life in a certain way. Some have either come from an institution, such as a mental health institution, hospital or jail, or they're battered wives with children or they're battered husbands. I've seen husbands who have been beaten up with a hammer. As a result, these people can't afford a hotel or a motel. They haven't got a set of references because they haven't got a tenant record, so they somehow end up in a rooming-house.

As a result, they often don't understand, they don't know what is expected of them as a tenant, so they behave as they behave at home. Well, at home they got kicked out. When they leave, I could cram more possessions into this little attaché case than some people have when they leave home. I have seen it over and over, hundreds of times.

These individuals, when they're not in jail and when they're not at home, need to live somewhere. We've established that. They still don't know how to behave. Then they screw up, so to speak, if you'll pardon the expression, and the Landlord and Tenant Act kicks in. There are many options which can be dealt with, so people leave, for whatever reason.

At some point, when people come back knocking on the door — they got kicked out, they have been kicked out many times. The next thing you know, they come back to you, or to other landlords, and say: "Wolfgang, I'm straight now. I don't drink any more. I haven't been in jail for a while. I know this is a safe place. I want to come back," which is great. Hallelujah. Fine.

But what happens is, the time frame from when the person leaves — and I have established a database, as I said, over the last nine years — to the time that the person comes knocking on your door, looking well and having all these good intentions and conquering the world, as we all want to do sometimes, it takes perhaps two years for that cycle to occur, for that to happen.

I foresee that streamlining the conflict resolution system will compound the problem that exists today, because what happens is, the cycle of when people will be coming back to knock on the door to the residence where they were treated fairly well, the time frame will be much shorter, and that is where I foresee the problems.

To get away from the concept of the Villa Street project in Thunder Bay, I've looked at other living arrangements in different geographic regions. I don't know if you know that I'm an ergonomics design specialist who quantifies information and separates it into small bits and pieces and assembles the information and tries to make some sense of it.

1530

Trying to look at how this could happen, I looked at rooming-houses and living arrangement concepts from the late 1960s to the early 1970s, which had an all-time high of fatality rates. For example, in Ontario in 1989 there were 16 fatalities as a result of rooming-house fires. Is that high? It's only a number. But when one now

compares the numbers with what the norm is, that year in the entire province there were 160 residential fatalities as a result of fires. The percentage of rooming-house living arrangements was only 2%, 2.5% or 3%, but we're talking about 10% of the fatality rate, which is quite high. What that breaks down to is that, for example, out of the 160 fatalities in Ontario in 1989, there was a ratio of calls of occurrences from the fire department of 160 to 1. Don't quote me on this now, I'm just going by memory. With the rooming-house fatalities, with out of every 10 calls there occurred a fatality.

How does that matter today? What will happen when the conflict resolution system is streamlined? What will happen is that the cycle which I talked about before, that people get vacated or evicted, the cycle will be a lot closer together. People don't have an opportunity now to recover from whatever got them kicked out. The place where they felt reasonably safe as, for example, in the rooming-house at Villa Street — they will not have had an opportunity to recover. As a result, if they come knocking at the door after four months and say, "Wolfgang, I'm okay now; I'm trying to quit drinking," or, "I'm trying this," or "I'm trying that," then in fairness to the other people, you couldn't take them. They wouldn't fit within the structure, which in itself is already not a structured living environment.

The concept of living, for example, in this rooming-house or the ergonomic living arrangement on Villa Street, is where people can live by means of experiential learning. In other words, it is okay to not do everything right. That doesn't mean it's okay to do wrong, but not everything is right.

I think you're probably getting impatient now. By the time we get back to the people, what are the options for them now if they can't come back to, let's say, Villa Street House? They can go to a hotel, but they won't have the money. Could they go to an organized, non-profit organization which gets funding from the government to actually house people who have social disabilities? They themselves also have requirements that people have to live by. When they don't meet those requirements, they're not accepted. So that is out. A regular apartment will not work. Ultimately, people will end up at a rooming-house.

That is why I'm saying, when they're not accepted — and that is what is happening today — when people are not accepted in a rooming-house, which incidentally is considered to be a low place to live, if they can't live there, then what is the next alternative? The next alternative is living on the streets, and I have seen it dozens of times. It's really sad when we see these people ending up in the street, ending up homeless.

What is the solution? All of you have done a lot of listening to a lot of people. As I mentioned before, a lot of people make a living at speaking out, but I don't. I've seen the misery and I would like to see the rooming-houses be included, or at least talked and thought about,

before the final decisions are made. That is the end of my compassionate plea for rooming-houses.

The Chair: Thank you for your presentation. We've got time for about one question, and I'm going to give that to Mr Gravelle.

Mr Gravelle: That's very kind, Chair.

The Chair: It's your town.

Mr Gravelle: Wolfgang, welcome. It's actually important for this committee to understand what this means to you, because I know this is not a business to you in the sense of how you make money; this is something that has a great deal of importance to you in a very human sense. I know you have been working hard to get your message across. I guess one quick question is all I have time for.

What do you think needs to be done in a legislative sense? What would help you basically make a concept or process or project like yours, the Villa Street property, which I've obviously seen as well, work better, and could affect other rooming-houses across the community or across the province?

Mr Schoor: That's a good question, Michael, and thank you. The only thing I could see is to start by educating the people, the segment of that population — again this will be a long answer, and I'm sorry but there's only one way to answer this question — because traditionally what has happened in living arrangements is that people outgrow where they live as a result of social status. People move out. They start out with a small house, they inherit maybe another one that's a little bigger, and the next thing you know they have saved up some money, they've got good jobs, they bought some good stocks, and now they want to have a big house. There is the trend: People start out small and end up in a big house, which eventually they can't afford and then sell, but then there's somebody else there who will buy it up.

But what has happened with the segment of the population we are talking about is that the buildings have outgrown the people who live in them, as a result of streamlining. For example, with the early protection systems, alarms are pulled mistakenly by the pull stations. People mistake them because their vision is not as good as yours or mine would be and they don't know enough; if they have glasses, they lose them. People mistake the pull stations for a light switch and on comes the alarm, over comes the fire department and the police, and it costs a lot of money. You see what I mean?

Maybe I'll leave one of these brochures with some of you fine people, and maybe the clerk can make copies.

The Chair: Mr Schoor, if you leave that with the clerk, the clerk will make it available to the committee members. You can leave us with one copy. Unfortunately, your time has expired, unless you can wrap up in a couple of seconds.

Mr Schoor: Okay. The solution is that landlords need to learn how to become responsible landlords in rooming-houses; tenants need to learn how to become responsible tenants in rooming-houses.

The Chair: Thank you for your message.
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DUKE'S TRAILER COURT

The Chair: We next have the Dukes of Thunder Bay, who have been waiting patiently since 1 o'clock. I think they're the first people I met when I walked in this afternoon. Bernadette, William and Ellen Duke are representatives of Duke's Trailer Court.

Mr William Duke: Good afternoon. I hope you all had a nice flight up here. Rather than waste more time — I'd like to say a lot of things, but right now I will give you credit, you've done a little bit; I won't knock you this time yet. I'll let Bernadette go ahead with the presentation and have some time.

Ms Bernadette Duke: I'm Bernadette. I'm really nervous. This is the first time I've ever spoken in front of a committee, so please bear with me.

I'd like to address part V of Bill 96. Real property relates to buildings erected on land and everything affixed to the land such as apartments, condominiums and houses. Personal property is property of a movable nature such as clothing, automobiles, mobile homes. A manufactured home land-lease community is shared real property. The owners operate as a business to provide the land for a viable housing alternative.

I would like to address the sections of part V as they pertain to our present situation.

The rights and duties of a landlord and tenant: With Section 99, although it states the tenants have the right to sell or lease their personal property, the owners of the real property are being told to relinquish the right to screen or ask for references of incoming tenants. Some real properties, such as apartments and condominiums, have application forms allowing the landlord or building manager to use them as a screening process.

Mobile home parks do not seem to be allowed a screening process to possibly ensure that the incoming tenant is responsible to do their best to meet the requirements of their lease agreement.

Are mobile home park owners' rights being compromised or is the "cure" a higher conscience, financially and legally, to the landlord?

It is not in the best interest, at any time, under section 100, for the owner to purchase a mobile home on his property. In our land-lease community there are several older mobile homes and they pose a high risk. The foundation for this analysis is that in 1984 the construction of mobile homes changed from a two by two to a two by six. There are tables I won't go over. I'll let you read them separately and apart and just sort of skip them.

A 1990 home is worth approximately \$30,000. A 1978 double-wide home depreciation value calculates at 68% to replace, and a 1972 mobile home, 12 by 60, in good condition, is worth approximately \$750 not established on land lease property.

Even at these prices, depending on the condition of the home the estimated costs may still be too high. The real estate companies have inflated the price with the explanation that they are on established properties.

When looking at the age, replacement value, high-risk insurance and personal loan financing, why would the owner not consider the right to purchase at a reduced price? At a reasonable price that only includes the manufactured or mobile home, the cost of skirting and set-up and not the price of the owners' real property, a purchase could be plausibly considered.

"Restraint of trade prohibited" in section 102: I am assuming this means all personal properties pertaining to the mobile home tenant. Our land-lease agreement is an informational piece of paper with the standards for maintaining the mobile homes in it. If our tenants choose to abide by this agreement, they will; if they do not, it not only costs time but money to take them through the court system. The right of the tenant outweighs the right of the landlord at a costly solution.

The responsibility of the landlord: Duke's Trailer Court is known as one of the better-maintained mobile home parks in this region. We are proud and understand our responsibilities and adhere to them. My comments are based on our financial obligation to provide services and the costs we incur for them.

Section 103(1)(a): As owners, we are only allowed to collect as part of the rent \$3.11 per unit for garbage disposal. This totals \$37.32 per month. This service costs us \$100 and is now going to increase to \$120 per month.

Sections 103(1)(b) and (c): There is absolutely no money available to provide a continual maintenance of road, winter or summer, but we are governed by law to provide it at a cost of approximately \$5,000 for 1996. Now our roads are in need of upgrading, which will cost close to \$6,000, not including the cost of the yearly maintenance.

Section 103(1)(d): On a yearly basis, just to maintain the water system and sampling costs, estimated is \$3,000 per year, and that's on the low end. Fuel and sewage maintenance are another \$500.

Section 103(1)(e): Nine of our 12 tenants keep their lots and their boulevards well groomed, as we do the rest of the park. Our costs have also increased in this area as equipment is very costly to repair. Approximate costs for 1996 were \$1,600.

Sections 103(2), (3) and (4): Where are the provisions for wilful or negligent conduct on the tenant's part that does damage to the owner's property? Who pays the cost when the real property has to be repaired?

We have one tenant who sublets his mobile home and his tenants have dumped motor oil on our ground. In the end we will have to clean it up before another tenant can move in.

What is the responsibility of the tenant?

We are going further into debt to provide essential services. The application for the above-the-guideline

increase is inadequate as it pertains to mobile home parks.

The tenants established in our land-lease community and the new tenants purchasing a mobile home do not have to be responsible to uphold their agreement or even sign it, if they so choose. They can choose not to pay rent. Try and collect or evict the tenant and their personal property.

"The panel will be asked to ensure that property tax reform leads to greater fairness for rental buildings and moves toward removal of major impediments to invest in new construction." Mr Leach is accurate in his implications in his statement but how is this applying common sense to the situation?

Termination of Tenancies: Summarizing this section, questions about the equality defined in the Landlord and Tenant Act. A tenant who abandons his or her mobile home: We send a registered letter to the last known address. We put a notice in the local newspaper regarding our intent. After 60 days we can dispose, sell or assume responsibility of this mobile home. If the tenant returns before the 60 days are up, he is to pay what is due to the owner in rent.

If the tenant returns during the six months, the owner must pay the difference after expenses to the tenant if the mobile home is sold or give the tenant back their personal property, if the owner has assumed responsibility for it, and get the arrears for rent from the tenant. Last, the owner is not responsible to anyone for selling, disposing or retaining the mobile home.

It is the tenant's responsibility to communicate his or her intentions to the owner. If, by the tenant's own free will, they abandon their personal property and do not pay the rent, then the tenant should forfeit the right to lease the land on which the mobile home is established. What laws pertain to abandonment of personal property?

My understanding is if a mobile home is not being lived in, the unit is uninsurable and causes liability problems, not only for the owner but a safety problem for the tenants in the park if they were to suffer loss because of fire or other problems arising from an unoccupied home. In the event the uninsurable mobile home was to cause damage to another unit in the park, such as fire, the real property owners then become responsible for the damage through their insurance policy.

If you have ever seen a mobile home on fire you would understand the importance of this issue. There is little or no time for the occupant to react and there is little or no time to react so that other mobile homes do not burn as well. We have personally lived through this traumatic event.

Prior to 1984 a single manufactured mobile home, 12 by 60, would burn in seven minutes and a double-wide would burn in approximately 12. The risk is high. Duke's Trailer Court has 11 units older than 1984 and only one newer unit. Two men who live in our mobile home park who are associated with the volunteer fire department —

one is the fire chief — could not respond quickly enough to even save their own parents' homes.

Mobile homes that are unoccupied also become a target for vandalism, not only for the unit but for other tenants' properties. Provisions in the Landlord and Tenant Act should allow owners or their insurance companies to validate the tenants' insurance. This is only for the protection of other tenants and all who live in the mobile home park.

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"Death of a mobile home owner," section 105: In other words, we are unable to do anything. If the tenant has no living relatives and there has been no instruction, such as a will, then how or what do we consider this? Provision of intestate succession is a long process. It is necessary to establish legislation to address this issue. It creates a lost revenue at the expense of the owner's already heavy financial burden.

"Extended notice of termination," in special cases, section 106: This is probably the only good news. For some, it would be an alternative to bankruptcy. The above-the-guideline increase of 2.8% does not take into its equation the rate of inflation when dealing with mobile home parks.

"New tenants," section 107: As an owner, our business gets nothing compared to what we have to put out in expenses. Revenue from our tenants, who have all the necessary and maintained needs of water, sewer and road maintenance, totals 36.06%. Since the last standing committee hearing was held in Thunder Bay, we have been analyzing our financial position. First, I have taken the time to contact other mobile home parks in the Thunder Bay area and compile the information to find a fair market value. It's a table on the next page. If you notice, Hillcourt is city-owned. At one time it was not, but when it went bankrupt the city purchased it. They are now able to charge for water.

The mean of this analysis is \$208.14. As you can see, we are much lower than any of the other mobile home parks. To be able to charge incoming tenants a fair lot rental amount, equal to the mean, would provide the revenue necessary to maintain this viable housing alternative.

In the Todd report, November 21, 1996, it was stated, "There are approximately 5% to 10% of units that have chronically depressed rents, which are well below market." Our tenants are being subsidized by the owner 63.94%. The long-term tenants who have been in the park for more than 30 years realize the chronically low rent. The lot rental must be increased to a fair market value to continue this viable housing alternative.

Procedures before the tribunal, section 109: Most mobile home parks feel their legitimate expenses are not being recognized and our rights are not being respectfully treated. Most of these mobile home parks face potential bankruptcy, the same as we do. The yearly allowable increase from rent control of 2.8% does not keep up with the rate of inflation.

Most parks face the same problems and have the same questions.

The above-the-guideline increase is unfair. It is geared for apartments, condominiums and any type of real property. What can be considered to increase lot rental and continue this housing alternative?

How has the Institute of Municipal Assessors valued mobile homes prior to and after 1984?

How can the real estate business use our property to inflate the cost of a mobile home that has depreciated more than what it is worth?

Should the insurance companies or building inspectors evaluate these mobile homes older than 1984 to ensure they are safe and insurable?

How can the property tax assessment office place a fair market value on mobile homes prior to 1984 if the depreciation of these older units is inflated by real estate?

These substandard buildings, 20 to 30 years old, are fire hazards to other homeowners. How can we eliminate these major impediments and this high risk?

Subletting should be abolished. We feel this would eliminate the problem of transients. It is a proven fact that persons who own their mobile homes and live in them are more responsible and respectful of their neighbours' properties. How can we screen who sublets these units?

Our lease agreements and bylaws are of no value. We spend money on lawyers to draw up the agreements and the tenants do not have to abide by these. They have more freedoms on our property than we do, even when they sign a lease agreement.

Our tenants have broken their lease agreements. They have planted trees over the sewer line. These trees are now causing problems with the hydro lines and need to be trimmed. They have built additions on to their mobile homes and repaired their vehicles, causing damage to the owner's property.

In a hearing for the above-the-guideline rent increase, a tenant, in ignorance of the mobile home park, submitted false statements. We were not allowed to speak to correct any of these statements even though we were the new corporate landlords.

Mr Al Leach stated in his August 26, 1996, release: "We must protect tenants first and foremost." Where is the equality?

The previous owners did not understand that their kindness would only burden the new owners left to carry on the business.

In 1957, Mame Duke and William Duke Jr had cleared the land and opened the park. The mobile home park was considered at that time a transient or gypsy community. Since then, mobile home parks have undergone several changes, as with the times. We have always worked with government ministries to make sure all work was done by the book. This property has the blood, sweat and tears from our family poured into hard work to make something that all of us could be proud of.

William Duke personally in the community has volunteered with the McGregor Recreation Centre for the community's recreational activities; volunteered his time and finances to take children to sports activities; always was available for consultation with the municipality of Shuniah council; volunteered his time at the school as an entertainer; donated his time and business equipment to the fire department, recreation centre and municipal office; fought for the fire department since 1963; and in 1973 accomplished the organization of the Shuniah Volunteer Fire Department, with equal opportunities for both men and women. He received the bicentennial medal for establishing and organizing the Shuniah Volunteer Fire Department in 1984.

Mobile home parks provide a viable housing alternative for personal property belonging to the tenant. Different from real properties such as apartments, condos and houses, there is very little in this Tenant Protection Act that deals fairly with mobile home park owners.

The operating cost of our land-lease community requires a higher guideline increase over the 2.8%. Mobile home parks house personal property and should not be placed in the same category as real property. Control on rent should be gone when the sale of a new manufactured home is on a rental unit site. Allow land-lease communities to impose minimum and maximum age designations on mobile units. The cap on capital expenditures should be increased to 12%, or a maximum of \$50 per month per annum. Third-party costs should be allowed to be passed through 100%. For Sale signs should only be placed in the window of the manufactured home to a maximum of two feet. Sublets and assignments of existing tenancies should not be allowed. Clarify provisions under the Landlord and Tenant Act to deal with the abandonment of tenants' homes.

Before part V of Bill 96 passes and becomes legislation, it would be in the best interests of the standing committee to visit land-lease communities. Essentially, it is imperative that the standing committee on general government realize and convey that mobile home parks have real impediments and need changes so they can remain a viable housing alternative and continue to have incentives to grow. Thank you.

The Chair: Thank you, Bernadette, for your presentation. I know the members of the committee will read your report again, with the exhibits. It's an accomplishment. I believe this is your 40th year as a family operation. I think that's what the brief stated, and you should be congratulated for that. We thank you for coming.

Mr Marchese: Just as a small point of privilege here, Mr Duke kicked me around a little bit the last time.

The Chair: I remember. I know the two of you are disappointed not to go at it again.

Mr Duke: Quit while you're ahead.

Mr Marchese: He did it in such a way that he paid me a compliment, but I'm not sure you heard it because I

didn't hear him very well. I wonder if we could hear him again.

Interjection: No, no, no. Once is enough.

The Chair: At the risk of losing complete control of the meeting —

Mr Duke: I'm tired of him knocking landlords. I've been on skid row, I've panhandled, I've sailed, I've worked in mines, I've done everything there is. I've worked from the bottom up and I'm sick of people crying poverty. Listening to you, you do good sometimes, but you sure screw up others.

The Chair: I thank you for coming.

Mr Duke: The Liberals and the NDP screwed it up in the first place. That little black book you got there, you sure opened up a can of worms. Now straighten it out for yourselves.

The Chair: I think we'll move on now.

1600

LAKEHEAD SOCIAL PLANNING COUNCIL

The Chair: The next presenter is Brenda Reimer, the executive director of the Lakehead Social Planning Council. Good afternoon, Ms Reimer. You may proceed.

Ms Brenda Reimer: Good afternoon. The Lakehead Social Planning Council has been active in Thunder Bay for the past 34 years. Our mission is to promote effective, efficient, responsive community services by identifying and researching social issues, providing information and referral services, and bringing people together to provide workable solutions to community concerns. During those 34 years, affordable, accessible and adequate housing has been an ongoing concern.

Since 1988 we've been actively involved with the Thunder Bay Access to Permanent Housing Committee. The goals of this committee are to advocate for more adequate, accessible and affordable housing; to assist individuals with limited resources to locate permanent adequate, accessible and affordable housing; to provide public education on affordable housing issues; and to provide a network for those concerned with housing needs and issues.

Thank you for the opportunity to participate in this public consultation. My comments will be made in the context of the goals shared by the Lakehead Social Planning Council and the Thunder Bay Access to Permanent Housing Committee. Our premise is that all people, regardless of their income level, require adequate shelter. Our concern is that some of the measures proposed in Bill 96 will actually make it more difficult for low-income tenants to meet their shelter requirements.

One year ago when I made a presentation here, I indicated to you that in Thunder Bay the problem was not one of housing supply but of affordability. The vacancy rate, which for years hovered around zero to 1%, is now in the 5% to 6% range, but the number of households on the waiting list for rent-geared-to-income housing stands at some 1,500, and 84% of these households are in the

core-need area. In other words, they have enough points that if the housing were available, they would be housed immediately. This is an increase in the percentage of people on the waiting list who are in that core-need area.

The existing vacancies are all at the high end of the rent scale. In response to this situation over the past year, we have some landlords who have lowered the rent in order to have their units occupied. We have many tenants who are paying as much as 50% to 60% of their monthly income for rent and are consequently doing without food or depending on food banks to get them through the month. We also have a situation where people are living in overcrowded or unsafe conditions because they cannot afford anything better. Despite the high vacancy rate, low-income people continue to be as limited in their choice of housing as they were when the vacancy rate was much lower.

The proposed Tenant Protection Act will only make the affordability situation more difficult because it allows landlords to increase rents whenever a unit becomes vacant and it eliminates the rent registry which a tenant could use to ensure that the rent being charged was a fair rent.

The repeal of the Rental Housing Protection Act also adversely affects low-income people because the stock of rental housing is no longer protected. People on low income require permanent affordable housing. Emergency shelters or sleeping on the street are not acceptable solutions. The government has a responsibility to be fair to both landlords and tenants, but it also has the responsibility to ensure there are affordable housing options for all of its citizens.

This brings me to the primary concern we have with Bill 96, and that is section 200. This section will allow landlords to use income information as one of the criteria in tenant selection. In other words, if the rent on a unit is more than 30% or 35% of a prospective tenant's income, the landlord could refuse to rent to that tenant, even if the person has an impeccable credit rating. If this section is passed as it stands, landlords will be legally permitted to discriminate against people on the basis of their income. Is this fair? Where are the human rights in which Canadians take so much pride?

From our work as an access-to-permanent-housing committee, we are already very aware that some groups of people are viewed by landlords as being less desirable tenants. People just released from institutions such as prisons or psychiatric hospitals often experience great difficulty in finding appropriate housing. Women who have left their partner because of domestic violence are often refused housing because the landlord is afraid the abusive spouse will appear and will damage the property. Sometimes this happens, but it is not a reason for refusing to rent to all women in that situation.

It is certainly reasonable for a landlord to be able to check credit ratings and landlord references and to be able to interview prospective tenants before renting to them. However, to be legally able to refuse to rent on the

basis of income information is purely discriminatory. I know you have received many submissions which quote studies that show that there is no objective basis for linking defaults on rent to income levels. In fact, many low-income families, including both the working poor and those on social assistance, are very stable and desirable tenants.

A further concern with section 200 centres around those such as young people or newcomers to the country who may not have a credit rating or landlord references. The absence of such information should not be grounds for refusing to rent to them. Nor should income information be used as a criterion, because the majority of both young people starting out on their own and newcomers to Canada are living on a low income. These people deserve the opportunity to prove themselves.

In conclusion then, the Lakehead Social Planning Council and the Thunder Bay Access to Permanent Housing Committee add their voice to the many others you have heard across this province urging you to provide equal opportunity to all citizens to obtain housing on the basis of criteria such as credit rating, landlord references and interviews. Generalizations about people on low income must not become a legal basis for tenant selection.

We urge you to remove the words "income information" from sections 36 and 200 of Bill 96. We also urge that the section be amended to clarify that the absence of criteria such as credit ratings or landlord references not be sufficient basis for rejecting prospective tenants.

The Chair: Thank you, Ms Reimer. Our committee has some questions that perhaps you can entertain.

Mr Carl DeFaria (Mississauga East): I would like to comment on the topic that keeps coming up again and again with respect to section 200. I don't know whether it's because the commissioner referred to that section or whether there has been misinformation going on about that section, because most of the people who made comments today referred to that section and indicated that the section would be used to discriminate.

We had people this afternoon indicating that there has been discrimination going on because often people are asked about their income, and just a couple of people before you indicated that often women would not raise this issue with the Human Rights Commission because they just can't afford to. So this is something that exists already.

What this section does exactly counteracts that. If Mr Marchese and other members would refer you to the subsection that goes after section 200, subsection (1) refers to section 21 of the Human Rights Code, and what subsection (3) says "the right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination is not infringed if" and only if "a landlord uses in the manner prescribed under this act" the income information. So the landlord is required to use that information in the manner prescribed

under the act. Then underneath that, subsection (2) of section 200 says, "Section 48 of the act, as amended...is further amended by adding the following clause: (a.1) prescribing the manner in which income information, credit checks, credit references...may be used by a landlord in selecting prospective tenants without infringing section 2."

So what this act says is that there will be regulation that will not allow the landlord to use that information in a manner that will infringe the Human Rights Code, not what Mr Marchese and other people are interpreting it to be. It's clearly stated in the act that it shall not be used in that manner.

I would like the people in the north to get it very clearly that the act actually prevents what has probably been going on before this bill was put forward.

1610

Ms Reimer: I thank you for that clarification. It still seems to me that criteria such as your credit rating, references from previous landlords and the kind of information that a prospective landlord can glean through an interview should be sufficient basis for deciding whether or not someone is a suitable tenant. I don't know why there has to be any income information asked for beyond that. If the person provides the first and last months' rent as required, what business is it of the landlord what their source of income is?

Mr DeFaria: I agree with you that, for example, 30% of income to be judged as being able to afford an apartment is not a correct way of judging affordability, but I'm saying that already landlords ask people's income. It's a normal thing in assessing the ability of somebody to pay, because if somebody has a high income, there is no problem. You don't even have to check other things. What I'm saying is that what this section does is actually formalize it, and there will be a regulation — the section clearly says that it will prescribe the manner in which it may be used by landlords without infringing section 2 of the Human Rights Code. So it's a protection, not a free card to landlords to discriminate. I think people are forgetting this other subsection that comes after the first one.

Ms Reimer: I think there are a lot of people across the province who have interpreted it differently. That being the case, I think it perhaps behooves this commission to look at the wording again and perhaps rethink it one more time, because people on low income are being blamed for many things that are happening in society today, some of which are not of their making at all. By various circumstances, any one of us could find ourselves suddenly in that low-income bracket and to be suddenly then seen as someone who is automatically going to be a bad tenant, who is automatically going to be out to cheat the system, all of these negative things. That's very unfortunate and very unfair.

Mr DeFaria: I totally agree with that.

The Chair: Mr DeFaria —

Mr DeFaria: If I may just finish my point.

The Chair: Okay.

Mr DeFaria: If 30% of income would be a fair way to judge whether somebody can afford an apartment, when my parents arrived on this continent, they would not have had any place to live, so I agree completely with you and other statements that have been made this morning as far as that aspect of it is concerned.

Mr Gravelle: We have discussed this. It's come up many times this afternoon and it's come up previously in other parts of the public hearing process. Regardless, it seems clear that this section sets into place basically something that will, at the very least, set up a situation where discrimination can take place. That's what seems clear to me. I think it's even been acknowledged by members of the government, "Yes, that might happen," and the response has been, "We will make sure, therefore, that is dealt with."

It seems to me, as I expressed earlier as well, that this is not a government that's actually been in the process of getting more people hired by the province to look after these matters; in fact, there are many less, so I don't have a great deal of confidence it will be handled. Therefore, I think the best thing is to simply eliminate this particular section.

As discussed previously by Ms Reimer and others, there are the credit checks and the rental history and everything else, with some sensitivity being needed.

I support what you are saying and the others have said and recognize that some of the government members here seem to feel this would not be a problem. I think we're trying to make a case that indeed it is and should be repealed.

I just want to ask you, if I may, Ms Reimer — thank you very much. I think it's —

The Chair: Mr Gravelle, we're almost out of time. I don't know whether Mr Marchese is going to pass.

Mr Gravelle: I don't know. Affordable housing: The bottom line is we do not have enough affordable housing; it's one of the realities. Do you view it as a responsibility, ultimately, of our society, of our government system, to care for those people who have a need for basic shelter?

Ms Reimer: Absolutely. At the present time, for people on social assistance, for example, the amount of money that's provided for shelter allowance is not sufficient for them to obtain shelter at the market rate. I'm not for a minute saying that landlords should therefore necessarily be expected to subsidize them. Landlords have a right to make the profit they should expect to make from providing housing; it is a business. But beyond that, housing is also a necessity and there has to be some kind of housing available to people that fits in to the amount of shelter allowance they receive. I think that's a government responsibility.

The Chair: At that note, Ms Reimer, I thank you for coming.

1620

BETTY KENNEDY

The Chair: Our next delegation is Betty Kennedy, who is an alderman with the city of Thunder Bay, and the Thunder Bay Task Force on Poverty. I assume she'll clarify what that is. Welcome, Ms Kennedy.

Ms Betty Kennedy: Thank you. Good afternoon. I'd like to start by identifying the fact that back in 1991 approximately 15,000 people, or 12% to 13% of the population, were living below the poverty line in Thunder Bay. Based on a number of indicators, including the increased use of services such as food banks, the shelters, soup kitchens etc, we believe that there's been a dramatic increase in the number of people living in poverty in Thunder Bay over the last six years. In addition, the level of poverty has deepened and problems faced by people in their day-to-day living have intensified.

Not surprisingly, one of the major concerns for people of low income is the area of housing. We held a number of focus groups and found, in consultation with public housing providers and tenants, that the major problems experienced by low-income tenants were identified as the lack of decent, affordable rental accommodation in the private rental market, longer waiting lists for subsidized housing and a diminishing number of subsidized units. At the present time, there's approximately 1,550 people on the waiting lists for all categories of subsidized housing. As you know, the province is in the process of eliminating 263 provincial units now subsidized under the rental supplement program.

Discrimination in securing rental accommodation because of being in receipt of social assistance or because of family status or marital status: I should just add that I am also the executive director of Beendigen, which is a native women's crisis home in Thunder Bay, and many of our women experience discrimination based on the factors I've identified, in addition to race, in this community.

People living in inadequate housing because of landlords' non-compliance with property maintenance standards and health and safety requirements: A number of people identify that their utilities were being cut off because of their inability to pay both their rent and utilities. They can afford either one or the other but not both. In some situations women were forced to make the decision between paying what they could towards their rent and utilities and in fact feeding their children, and this is real.

The primary focus of my submission to the committee is in responding to what impact Bill 96 will have on people living in poverty. I am extremely concerned about the elimination of rent control, which allows a limited rent increase whenever a unit changes hands. With this change, I believe homelessness will increase. It will create an incentive to evict tenants who are living in affordable housing so that new tenants can be charged higher rents. I'm also concerned that under the new

legislation people with low-paying jobs or who are in receipt of social assistance can be denied housing if the landlord perceives that they cannot afford the level of rent in the building. This is giving landlords a licence to discriminate against poor people and will exacerbate the existing problem that poor people have accessing decent housing.

I'm also deeply concerned that the overall effect of Bill 96 will be to weaken procedural rights and safeguards of to tenants, and in particular the well-established right to security of tenure. It's almost ironic that this bill is called the Tenant Protection Act when I believe some of the changes in fact would undermine the rights that they presently have under existing legislation.

Low-income tenants are experiencing increased hardship in finding affordable housing. Many people have been forced to move into smaller accommodation or to double up with another household, resulting in overcrowding. More people have had to rely on shelters and there have been waiting lists for people trying to get into shelters. In addition, there have been numerous reports of women returning to abusive relationships because of their inability to secure affordable housing for themselves and their children.

By repealing the Rent Control Act, Bill 96 enables landlords to charge whatever amount they want whenever the rental unit changes hands. This will inevitably result in higher rents, given the low vacancy rates in the low end of market units. Right now I believe our vacancy rate is about 4%, but that vacancy rate really relates to the higher end of market rent and there's very little in the lower end. In combination with the provisions that make it easier to evict a tenant, it will also create an incentive for landlords to evict tenants who are now living in units with low rents.

It's obvious that the removal of rent control will create further financial hardship for the most vulnerable of tenants. For existing tenants there will continue to be rent increase guidelines established each year by the government. However, Bill 96 allows landlords to apply for an additional increase of 4% or more. Currently the additional increase is 3%. Unlike the Rent Control Act, the new legislation allows for the full cost recovery of property tax and operating cost increases to be recovered from tenants by increasing the rent.

All these changes simply allow landlords to charge more rent. It is my understanding that procedural changes will also allow landlords to collect rent increases before they've even been approved by the tribunal. In contrast, it will be more difficult for tenants to recover illegal rents or charges because of a one-year limitation period, as compared to the current six-year limitation period under the Rent Control Act. Bill 96 also allows a higher illegal rent to become legal if a tenant has not found out by the time one year has passed. Inasmuch as the rent registry will be eliminated, it may be impossible for a tenant to know if the rent was legal or not.

I strongly oppose these provisions because they are so obviously one-sided to benefit landlords to the detriment of tenants. I find it objectionable that a landlord would be able to keep the illegal rent and have it considered legal after one year simply because a tenant did not appeal that. The provision sharply contrasts with the fact that tenants no longer have the right to apply for a rent decrease should the landlord's utility costs go down, for example. The cumulative effect of all these provisions is to give landlords all the power and to seriously undermine tenants' protections against landlords who would abuse it. They will obviously also seriously erode the availability of affordable housing for the most vulnerable in our community.

One of the side-effects of the province's decrease in assistance rates has been increased difficulty for tenants in paying their rent, resulting, as I mentioned, in increased tension between landlords and tenants and a growing reluctance by landlords to rent to people who are on social assistance. Under the current human rights legislation it is illegal to discriminate against an individual in housing because they are on social assistance.

Section 200 of Bill 96 will amend the Human Rights Code to enable landlords to use income information in selecting prospective tenants. Regardless of whether the tenant has a good credit rating and rental history, it will now be legal to deny housing simply because a person has a low income or is in receipt of social assistance. This provision will also have a devastating effect on the most vulnerable: those on assistance, single mothers, young people and those who rely on disability benefits. Section 200 essentially condones the most widespread and destructive form of discrimination in Ontario against recipients of public assistance. It serves to legitimize a growing hostility towards poor people in this province and in this community.

It is my concern that this provision will have the effect of further restricting the ability of low-income tenants to secure affordable housing. It will force many individuals into accepting less adequate housing and others into more costly accommodation. More young people will be forced on to the streets and more people will be relying on shelters, which are already full, and more children will be forced into the care of children's aid societies.

Not only would legalizing discrimination have a devastating effect on the most disadvantaged tenants; it will result in long-term social problems and eventually increased government spending. I therefore strongly urge the committee to amend section 200 to strike out income information as a permissible criteria for selecting tenants. Thank you.

The Chair: Thank you very much. We have an opportunity for a quick question from each caucus.

Mr Gravelle: Thank you very much, Alderman Kennedy. You again have reinforced, certainly on behalf of the city task force on poverty too, some of the real concerns about affordable housing and the fact that a lot

of the parts of this legislation are going to simply make it more difficult for people to afford housing.

Could I ask you a question that's related to the downloading of public housing in terms of municipalities? I appreciate it's not related to Bill 96, but I'm interested in terms of asking municipalities to take over the responsibilities for social housing, what impact that might potentially have obviously on the housing situation in our community.

1630

Ms Kennedy: At this point, without the detailed information that we're waiting to hear from the provincial government, we estimate that the overall impact of that will result in a \$15-million cost to the municipality. You can be sure that over time the municipality obviously will be struggling to cope with that significant downloading and ultimately will result in less and less affordable accommodation being available to people in our community.

Mr Marchese: I guess there's really only time for one question.

The Chair: One very brief question, yes.

Mr Marchese: I'll leave section 200 for comment from another lawyer who's coming at 5 o'clock.

Ms Kennedy: Right.

Mr Marchese: Just to talk briefly, the government says the system is broken, that's why they're trying to fix it. Landlords coming in front of this committee in the past and now are saying it's just tilted too much to tenants' rights. This government, listening to that, said, "We need a balanced approach." So Bill 96, in their view, is striking that balance. What do you think of that opinion?

Ms Kennedy: I've already indicated I feel it's gone too far the other way. I don't see this as a balance. It's titled Tenant Protection Act and the way I perceive this is it's eliminating any protection tenants had and really undermines anything they could possibly foresee in the future.

Mr Gilchrist: I have a question, but a quick comment: It's quite unbecoming to perpetuate the myth and to state it in such terms as you did. This section 200 does not condone discrimination. Particularly, it does not change the existing clause in the Human Rights Code that says you cannot discriminate on the source of income. To suggest that it does is patently untrue. I would be more than happy to go over the details. We don't have time here now. If you're at all unclear about the other section, this does not change anything in the Human Rights Code. It clarifies an existing right.

I'd like to ask you a very quick question, though. We heard earlier today — and as an alderman you're in a position to do something about this. I would invite your comment as to why Thunder Bay, as all other communities in Ontario, charges a disproportionately high property tax to apartment dwellers and why, given the problem with finding affordable housing is obviously impacted by the fact of that unfairness, you as a council

would not have remedied that and gone to a system that charged the same taxation for single family homes and for apartments.

Ms Kennedy: As you've already indicated earlier today, you've just given us the tools to do that. We're still waiting for the detailed information to analyse exactly what's coming down in terms of how it's going to affect the municipality. You, as a government, have had years and years of having the assessment under your responsibility, and I would ask why you didn't use the opportunity to do that yourself.

Mr Gilchrist: This is the first bill that's come forward. Don't skirt the issue. We're not talking the total pop. We're talking about how you distribute between apartments and houses and you didn't answer the question.

Ms Kennedy: You can be sure that in the next year, now that we do have the tools, we will be analysing that to determine how best to deal with that.

The Chair: Thank you very much, Ms Kennedy, for your presentation.

DRYDEN AREA MOBILE HOME ASSOCIATION

The Chair: The next presentation: I have two names from the Dryden Area Mobile Home Association, Laurretta Wesley and Doug Mills.

Ms Laurretta Wesley: I'm very glad to be here. Thank you for giving us a spot to speak. I will leave out some of the things on this leaflet. You can read them yourselves to give Doug time to speak.

I've been hearing the word "discrimination" today. Would you consider a landlord protection act? The other thing on discrimination is, government and municipalities can download garbage pickup and water testing on us. We cannot pass this on to our tenants. Is that discrimination?

The town started dumping their garbage in our trailers at night and we had to hire a garbage collector. It cost us \$20 a month for gas when we picked up our own, and due to the town downloading all their garbage on us, we had to hire a collector who went door to door and picked it up. It has now gone up to \$192 a month. Our last increase was \$92 this year. You're increasing it 2% above the guidelines, I believe, this year, and that comes to \$84 in a year. It hardly touches our \$92-a-month increase. As a matter of fact, our garbage pickup uses your whole 2.8% increase from 1997.

The MOE lab closed in Thunder Bay and our test went from zero dollars to \$10,000 a year, and that's a quote from the Manitoba lab.

The next one you can read at will.

For those of you who don't know, there are nine mobile home courts in the Dryden area, within 30 miles, on drilled wells, their own sewer system, who have to supply snowplowing, grading, gravelling roads, garbage pickup, hydro and phone lines, water and sewer and have

septic tanks pumped and cleaned yearly. We are billed for everyone's taxes, which we have to pay and then collect from the tenant. We are not reimbursed for collecting. If it's not collected, it's our loss.

Mr Doug Mills: Good day. As owners of the mobile home parks in Dryden, this act clearly defines that if we don't look after our obligations on our end, they wish to impose fines on us, which we are perfectly willing to accept. What we don't like is that if the tenants don't live up to their obligations, nothing is done. We would like to see something put in place. As an example, the tenants are continually late paying their rent. You continually have to chase them. Without authorization, they'll go and build sheds on the property that they're using for their mobile home. It's a constant battle. They'll let their dogs run loose. They'll have old cars that they don't want to get rid of parked in their yard.

We have no rights as landlords to enforce anything, any of these obligations that you point out in the act. Under the Landlord and Tenant Act it says that they have to obey certain rules living here. They don't have to obey anything. They do exactly what they like and we have no authority, unless we want to hire a lawyer and go after them through the court system, which is almost impossible. There's not a judge in the land who's going to impose any fines or anything on these people. We would certainly appreciate and like some help in this area.

As for the 2.8% increase we're allowed to pass on to our tenants, as an example, we all have to haul our garbage to the municipal dump, which is controlled by the town of Dryden. The 2.8% increase that we got last year didn't even cover the cost of our garbage pickup because it more than doubled. This basically is a joke.

The municipal governments have been getting infrastructure subsidies from the provincial government for many, many years. They have repaved their streets, improved their sewer and water for the taxpayers. We owners of the mobile home parks have to do all this on our own, and get these meaningless little increases to actually keep our parks running, so we are getting further and further behind as our costs escalate. Even the imposition of a 7% GST on everything we do — if we buy a load of gravel, there's 7% GST. Everything we do, we're taxed on, and it's really hard to keep up.

I was very impressed with the Dukes' summary of what is going on. They covered just about all our concerns. Thank you for listening. Hopefully, something can come of this. We provide affordable housing for these people and would like to continue doing so, but how long this is going to carry on, we have no idea.

The Chair: I believe members of the committee may have some questions.

1640

Mr Marchese: It's nice to see you both again. Obviously, questions you raised keep on coming up. The Dukes raised similar questions over and over again.

We have been hearing from some people where they suggest that perhaps mobile home parks and land-lease communities should be dealt with in a different way, perhaps not under this act. The more I hear about it, the more I seem to be convinced that one needs to take a better look at how one deals with mobile parks and land-lease communities, because I'm not sure we have done a good job of it. I don't really know what kinds of questions to ask. You've raised a whole lot of questions, the Dukes have raised many more. The government members may have some suggestions about how to deal with it. I really don't know what to ask you.

Mr Gilchrist: Thank you both. It's unfortunate the Dukes talked right through the 20 minutes, because I did want to respond to some of the comments they had made. You've afforded me an opportunity now to piggyback, because you've raised many of the same concerns.

I'd like to give you some good news right off the top on your point 1. First off, the act allows for extraordinary above-guideline pass-through of costs for anything ordered by the municipality, or by the province for that matter. For example, for your increase in garbage collection you will be allowed to simply flow that through to the tenants. Also, I can't confirm this as an absolute, but we're sympathetic to the water testing issue as well and we're going to be making a recommendation to cabinet that they add that service as another one to be flowed through.

Both of you have raised the issue of tenants who could be a problem. We are also sympathetic to that, and it has come from a variety of sources. I don't think we've heard from a single tenant group that didn't agree that it's possible to have a bad tenant, just as it's possible to have a bad landlord. It was raised, particularly in the Toronto hearings, that this bill only singles out harassment by one party. We will be addressing that so it fairly represents the fact that you could have a problem on either end of the scale and it's not appropriate to single out one or the other.

The final comment I would make is that you talk about things such as chronic late payments. That is also grounds for eviction, as it should be, if someone is continuing to not live up to their tenancy agreement. That would be something you can currently pursue. As a general rule, the items you've stated in here that are ordered by the municipality will be able to be passed on to the tenants, obviously divided by the number of units you would have there.

The other thing is recognizing that on the flip side, for those people who are your clients, we don't want to eliminate their ability to resell their units. That's not in your interests, because then they'd just become empty. But recognizing that there are some chronically depressed when those units are sold, the minister has stated publicly that he's anticipating an amount no greater than — but it could very well be exactly — \$50 by which you could raise the rents when one tenant sells or when one mobile home owner sells to someone else in chronically

depressed areas. There would be an opportunity to have that balance.

Meanwhile, the 2.8% this year applies to your clients, no different than other rental units, save and except that you can pass through all these other extraordinary municipal increases.

Mr Mills: Can I say something here?

The Chair: You sure can.

Mr Mills: You say we can go after them for the rent. How do you propose we do that?

Mr Gilchrist: You could go to the tribunal with an eviction.

Mr Mills: This tribunal will be set up where?

Mr Gilchrist: All the landlord-tenant issues that are currently done in court will now be set up in a separate entity. I anticipate we'll have regional offices across the province. That sort of detail has not been fleshed out as yet. But certainly there will be no less service, and probably greater service. What there will be is a singular focus. All that people who will be working in that tribunal will do will be landlord and tenant issues. They will therefore have the ability to become far more proficient and make sure there are faster time frames.

Mr Mills: So what you're saying is they are definitely going to be the enforcers on both sides, for the tenant and for the landlord.

Mr Gilchrist: The mediators, hopefully —

Mr Mills: As mediators, are they going to enforce?

Mr Gilchrist: At the end of the day, they will have the power that the courts have right now to seek enforcement via the sheriff. But hopefully, mandatory mediation will be part of the process and we certainly believe that having the landlord and the tenant sit down to discuss the issues is a good first step, and cheaper for both parties as well. But at the end of the day, if there's no resolution or if the tribunal finds there has been a wrong either from the landlord or from the tenant, they will certainly have all the powers and remedies they need to enforce their rulings.

Ms Wesley: I have a letter from the rent review board that says I cannot pass on the garbage pickup and the water testing to the tenant.

Mr Gilchrist: Under the current law you can't. Under the bill we're proposing to amend, you cannot do that. Once this bill has received royal assent, then you will be able to. Not just that, but if the municipality asked you to improve the roads, for example, or any municipal work order that comes down — again, no tenant is going to deny that that's appropriate. It's their garbage that's being thrown out. If you reside there as well, your cost would be one whatever of the total number of units. I'm not suggesting that everyone doesn't pay their fair share. But from the point the bill is passed, you would have that right.

Ms Wesley: We have 25 tenants and us. The garbage company told us they're picking up over 112 bags a week. Somebody is putting out a lot.

Mr Gilchrist: I think your clients have a built-in incentive to be a little vigilant and report anyone they see illegally dumping.

Mr Mills: What this has created is another problem, where friends come and drop their garbage off from town, because there they have to pay. Right now, it is far more appropriate to rent in a mobile home park, where you're not getting passed on these user fees.

Mr Gilchrist: Your 26 units will work out to about another \$4 a month. Maybe that will make them think twice about inviting their friends to do that.

The Chair: Maybe you should talk to Alderman Kennedy.

Thank you very much for coming.

1650

KINNA-AWEYA LEGAL CLINIC

The Chair: The next delegation is Mary Veltri.

Ms Mary Veltri: Good afternoon. I'm sorry, I was out in the hall.

The Chair: It's all right. You're right on schedule. Please proceed.

Ms Veltri: My name is Mary Veltri. I have copies of my submission, if someone would like to take them.

I'm one of the staff lawyers at Kinna-Aweya Legal Clinic. Our legal clinic serves the district of Thunder Bay. We have three branch offices and we've been in operation for 20 years.

One of the major areas of law in which we practise is residential tenancy law. It's probably the second-highest case type in our office. Through our work with low-income tenants, we have developed a fair amount of expertise around the Landlord and Tenant Act and other related legislation.

We have over the past few years become aware of a growing problem that tenants have in this community, and that is that they can't afford decent housing. Since the social assistance cuts in the fall of 1995, what we've seen in our office are growing numbers of people who can't afford the rent, are being evicted because they can't afford the rent, can't afford utility bills, have no heat in winter, don't have facilities to cook, don't have phones. What we have observed in a short period of time is a real worsening and deepening of the problems that poor people face in our community.

When we speak to this Tenant Protection Act, we speak from the perspective of low-income people and what the impact will be on their needs for housing and the protection of their security of tenure. We are concerned that this legislation in its totality does not benefit tenants, despite the title Tenant Protection Act. We feel that this legislation primarily enables landlords to increase their rents and to be able to evict tenants with greater ease.

As someone who has practised in this area for 10 years, I guess the Landlord and Tenant Act was always

one of my favourite pieces of legislation, so I also feel a bit of sadness that this act is being tossed out.

In our province and in our country, we have developed the principle of security of tenure. What that represents is a recognition that people have a right to housing and that they cannot be evicted as renters unless procedural steps are followed very closely and unless there are proper grounds to terminate the tenancy. The law, as it has been interpreted and developed over the years by the courts, has come to recognize this as a very fundamental principle. That's because we recognize as a society that people need a roof over their heads, and before we can turf them out, we need to make sure that all the safeguards have been met.

I don't intend to deal with the whole legislation point by point. There are a number of areas in the law as it has been drafted that clearly show that the intent is to preserve and to enhance the rights of landlords, who in many ways are already in an advantageous position because they have more money than tenants, and to do so at the expense of tenants.

The very first thing I want to comment on is the rent control provisions. In principle, it's fine to combine all the pieces of legislation under one head in the Tenant Protection Act. I think in theory that's fine and it's not in any way offensive, but what the legislation does is effectively remove rent control. We do not see how allowing the landlord to increase rent without any limitation is going to increase the housing stock in this community. What we inevitably foresee is that landlords will have an increased incentive to evict tenants and that in fact the current stock of housing will diminish.

The most vulnerable tenants, of course, are people who live on a fixed income: social assistance recipients, people who live on old age security, students, new immigrants, people with disabilities. They are the people who are least able to withstand the vagaries of the market. So when you deregulate rent control, then what you have is a situation where the supply and demand is what's going to determine the rent.

In Thunder Bay we have a situation each September where the number of people looking for rental units increases. We have Confederation College students and Lakehead University students who come into our community, and all of a sudden it becomes very, very difficult to find rental accommodation. Of course the market forces would determine the rent and it would be very easy and, I guess, appropriate in these situations for landlords to increase the rent. What will that do to people who also need housing? They're not going to be able to afford it.

We are concerned that many more people will be rendered homeless by the removal of rent control. The limited rent control which comes into place is weaker from the perspective of tenants than what exists currently. Landlords are now going to be able to charge an increase of 4% rather than 3% in addition to the annual guideline the government is going to set. It will

also allow landlords to pass on the full cost of property taxes and operating cost increases to tenants on top of the 4% increase.

At the same time that the landlords' ability to increase rent revenue has been enhanced, what we've seen is that tenants' rights have been substantially weakened. For example, a tenant will not have the right to apply for a rent decrease where a landlord's utility costs go down. A tenant will only have one year to apply for a rent reduction because of a withdrawal of services or facilities, as compared to the landlord's ability to get a rent increase which has a six-year limitation period. We see this imbalance throughout the Tenant Protection Act. It's so blatantly unfair: A landlord has six years to try to get increased rent and a tenant only has one year.

In addition, another provision we think is blatantly unfair is one that says illegal rent increases will be deemed legal after a year. The current Rent Control Act imposed no time limit for establishing lawful rents and it placed a six-year time limit to recover illegal rents and charges. There's absolutely no justification for allowing landlords to have illegal rents deemed legal after one year. This provision encourages illegal conduct by landlords and unsuspecting tenants will be taken advantage of. We think this particular section is extremely offensive and should not be allowed to continue.

The big area our office is involved with has to do with when tenants are being evicted. Security of tenure and termination of tenancies is an area in the Tenant Protection Act which in some ways is similar to the Landlord and Tenant Act, but again the changes it makes are generally there to weaken the rights of tenants. We feel the changes will make it easier for landlords to evict tenants and their right to adequate notice has also been seriously diminished under the act.

The Landlord and Tenant Act sets out a prescribed form that landlords use when they evict tenants. These standard forms are widely available and most landlords use these forms. What was required in the form was not only the grounds for evicting the tenant, but also the particulars; that is, the details of the facts for the reason the landlord was evicting.

The notice also had to include a warning to a tenant telling the tenant that they had a right to remain in the premises if they disputed the notice. As a lawyer who has practised in that area, that warning was of extreme importance. A lot of tenants, when they read that realize, "Oh, I do have a right; there is a law that protects me." Particularly young people who are entering the rental market for the first time, aren't informed of their rights generally. But when they see it on a piece of paper, they know, "Okay, I can challenge this, I can go to court or I can have someone hear my side of the story." I think that's a very important piece of information to include on the notice.

The Tenant Protection Act doesn't provide for prescribed forms and rather states that the notice must be in

a form approved by the tribunal. This is ambiguous. We don't know, does this mean the tribunal can approve it after the fact? In which case, we will have all kinds of notices that might be considered legal.

1700

In addition, the Tenant Protection Act doesn't require the landlord to give particulars. This sort of flies in the face of a very basic principle of natural justice, which is that a person has a right to know the case they have to meet. If the landlord is saying, "You are making noise," it's good to know what exactly the offensive noise is. Why is this disturbing other tenants? Was there a party on such and such a time? What is the case the tenant has to meet. These kinds of particulars, usually just two or three lines that the landlord would include in the notice, would be sufficient for a tenant to know what exactly the accusation is, what the allegation is.

Another issue relating to procedural fairness is a provision of the Tenant Protection Act that says the tribunal can amend the application at any time. Again this goes against something very basic and fundamental, which is that you shouldn't be ambushed at trial. You should know well before you go to a hearing what exactly the allegations are. We think this is not going to be helpful for tenants.

Another provision that is very dangerous and is open to abuse is the provision that says unwritten agreements to terminate a tenancy can be enforced by the landlord applying to the tribunal and simply giving an affidavit to the tribunal saying that there has been an agreement to terminate. Under the Landlord and Tenant Act it's certainly possible to have an agreement to terminate the tenancy. It should be signed by both parties and it should be in writing and then the landlord can go to the court, apply for a termination order and get possession. However, it has to be in writing and it has to be signed by both the parties. That's very clear, demonstrable evidence that there is an agreement.

Under the Tenant Protection Act, the landlord doesn't even have to give notice to the tenant that they're going to go and get this order evicting the tenant. So they go to the tribunal and they say, "Yes, we don't have an agreement in writing, but yes, we definitely have an agreement," and the tenant doesn't even know this has happened. This flies in the face of basic principles of justice, fairness, due process. This is offensive. We should not have an act that purports to protect tenants' rights when tenants are not even going to be given an opportunity to dispute an allegation that there's been an agreement to terminate the tenancy.

This problem is worsened by the fact that if a landlord gets a default order or an order without having to give notice to the tenant, the landlord doesn't even have to serve that order on the tenant. I don't know if this is an omission, an oversight or a blatant example of how we are trying to make it easier for landlords to evict and have absolutely no regard for the tenant's rights. Under the current legislation, if there's been a default order, a

tenant has seven days after being served with an order to apply to the court to set aside a default judgement. So they will have an opportunity, if they have a dispute, to try to appear before the court.

Service of court or tribunal orders that affect something as fundamental as housing should be clearly stated in the legislation. There should be a requirement that these orders are served.

With respect to privacy, a very central concept of a tenant's rights to security of tenure, we see that there has been a diminishing of the rights of tenants. The Landlord and Tenant Act narrowly prescribed when a landlord had the right of entry and had to provide notice. The Tenant Protection Act has expanded that right of entry and has included now the right to enter to show premises to prospective purchasers, mortgagees and insurers, and to carry out repairs.

In addition, the landlord has the right to enter for the purpose of showing the premises to prospective tenants after the landlord has given notice to the tenant. Currently, under the Landlord and Tenant Act, if the tenant has given notice to the landlord that they're going to leave, then the landlord can show the place to other tenants. If the landlord has served notice, what if the tenant is disputing the notice? What if the notice is a sham?

By doing this, first of all, it's enabling the landlord to harass a tenant who is exercising their legal right to remain in the premises even though they've received a notice, and it misleads prospective new tenants. We just see this as a method for landlords to put pressure on tenants to leave when they're enforcing their legal right to remain.

With respect to changing the locks, the one provision in the Tenant Protection Act which erodes a tenant's rights is that a tenant cannot change the locks unilaterally without the consent of the landlord, although the landlord can unilaterally change a lock without the consent of a tenant. We see a lack of respect for reciprocal rights. Certainly, the tenant's right to have security, both psychological and physical security, is very important. That's one of the most basic things we get when we rent an apartment: We want to be able to keep the door locked and keep intruders out.

There are many circumstances where tenants fear for their physical safety. A very well-known example is a situation where women are leaving an abusive relationship and are being stalked by their former spouse. In a situation like that, if a landlord is refusing to change the locks, is it proper for the tenant not to change the locks? We would think that as long as the tenant gives a copy of the key to the landlord, they should be allowed to change the locks where the landlord has unreasonably withheld consent.

The Chair: Ms Veltri, I don't know where you are in your presentation, but I regret to tell you that you have about two minutes left.

Ms Veltri: I will leave the rest for you to read. I've addressed some similar provisions that I think others have addressed, including the Human Rights Code amendment. I would ask that you consider the rest of my submission and I would gladly entertain any questions that you have at this stage.

The Chair: We can't give questions to all caucuses, that's the problem. We've got two minutes left. I'm going to ask Mr Gilchrist if he has any questions.

Mr Gilchrist: No, I'll pass.

The Chair: Fine. Mr Marchese.

Mr Marchese: You covered a lot of areas that I think are very important. I'm hoping some of these changes will be made by the government, some that I think are very reasonable. The one I wanted to pursue, of course, was the human rights one because Mr DeFaria has commented on this, and they all have different opinions than you and I and many others in this regard.

Section 200 simply says: "The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination is not infringed if a landlord uses in the manner prescribed under this act income information, credit checks, credit references...or other similar business practices which are prescribed in the regulations made under this act."

Subsection (2) I'm not sure helps any.

Ms Veltri: It simply deals with the regulatory power to further define how a landlord may use that information. It doesn't in any way change the basic intent of that legislation.

Mr Marchese: That's my sense. But they say: "No, it simply enshrines something they do now, at the moment. A lot of landlords do it and we're putting it in and that section does not discriminate. It will not discriminate." Or they say, "Landlords would not be allowed to discriminate and this section simply says that." I don't know if you've had an opportunity to see it. I just don't see how this section makes it clear that landlords will not be able to discriminate. I'm not sure.

Ms Veltri: In terms of the comment that this is a widespread practice right now, it's true. It's the number one complaint that is made to the Human Rights Commission currently. You know the Human Rights Code deals with all kinds of discrimination: in housing, in contract, in service provision. The number one complaint the commission receives is from social assistance recipients who try to get housing who are told, "Sorry, we don't rent to welfare recipients."

It is currently against the law and people who go to the Human Rights Commission can get immediate redress for this offensive behaviour. We are living in a time when it has become fashionable to pick on poor people and to victimize poor people.

1710

This particular section of the act simply says: "We are going to condone this. We think it's all right that landlords don't rent to social assistance recipients because they're poor." I think that is very clear. When you open

the door to gathering information about a person's income source, what you're saying is that we can legitimately ask this question, and if that's the reason, if the person's income is too low, then we can justifiably not rent the unit. The impact of this will clearly be to discriminate against social assistance recipients. Otherwise, why do we need to make the exception? That's what this section is all about. Even though the Human Rights Code says it's not proper to discriminate against social assistance recipients, the exception is that landlords can now ask about income information.

The Chair: Ms Veltri, we've gone beyond our time. If the committee members consent, Mr DeFaria has a question. Agreed? Mr DeFaria.

Mr DeFaria: I would like you to read subsection 200(2) and tell me how you can say that section 200 allows discrimination when subsection (2) says that you can't.

Ms Veltri: Subsection (2) of section 200: Is that what you're referring to?

Mr DeFaria: Right. Can you read it?

Ms Veltri: What it refers to is section 48 of the act, but what is meant is of the Human Rights Code. Section 48 of the Human Rights Code, as I understand it, is a regulation-making power. Under the Human Rights Code, it says the Lieutenant Governor can make regulations to do certain things in relation to the Human Rights Code. Usually by regulation we elaborate on powers, we clearly define what exactly is meant by certain sections. This is saying that in addition to all the other regulatory powers under the Human Rights Code, now under that code there will be the regulatory power to prescribe the manner in which income information etc may be used.

Mr DeFaria: It says without infringing section 2 of the code.

Ms Veltri: That's right. They're deeming it not to be an infringement.

Mr DeFaria: No, that's not what it says.

Mr Preston: Where does it say that? That's what I want to know.

Ms Veltri: Pardon me?

Mr Preston: Tell me where it says that.

The Chair: Mr Preston.

Ms Veltri: It's a parallel section to the section above it. It says "is not infringed." Subsection 200(1) says that we're going to be able to do that and it's not going to be considered to be an infringement.

Mr DeFaria: "If." Then it goes to subsection (2). I'm talking about subsection (2).

Ms Veltri: Yes, but subsection (2) must be read in light of subsection (1). We're already saying that the gathering of income information is not going to be held to be discrimination against social assistance recipients.

Mr DeFaria: If it's used in the manner prescribed by the code.

Ms Veltri: Right.

Mr DeFaria: That regulation is to indicate how that information is going to be used without infringing on

section 2 of the Human Rights Code. This is the protection that you are asking for to prevent all the abuses and all the appeals that have been made up to now.

Ms Veltri: I strongly disagree. I just consulted with a human rights lawyer, an expert who has written one of the definitive texts on the subject.

Mr DeFaria: I was involved with Parkdale Community Legal Services when it was opened about 22 years ago, which is probably a parent to your clinic that was opened a few years later. I dealt with the Landlord and Tenant Act and I'm telling you that this subsection clearly sets out what kind of use the landlord is going to be able to make of that information in a manner that will indicate that it cannot infringe on the Human Rights Code.

Ms Veltri: The subsection preceding that amends section 2 of the Human Rights Code. I think that's the most important section, because it delineates or it narrows what the interpretation of discrimination would be under that grounds.

Mr DeFaria: That section only amends the Human Rights Code to allow the landlord to ask information about income.

Ms Veltri: Yes.

Mr DeFaria: Isn't that all it does?

Interjection.

The Chair: If the committee agrees, Rosario.

Mr DeFaria: Isn't it true that all it does is allow the landlord to ask information about income?

Ms Veltri: Yes, that's right.

Mr DeFaria: That's all it does. It doesn't say you can discriminate.

Ms Veltri: My submission and those that have been made in greater detail by other organizations — CERA and I gather Michael Ornstein have made a submission. The argument, I think, has been well made by others.

The Chair: I love it when lawyers fight. Somewhere, Mr Marchese, we have to —

Mr Gilchrist: That's why every court has two of them.

The Chair: We're going to go on forever here. It's an issue, Ms Veltri, that obviously the committee is going to deal with in the future. Mr Marchese, I see your hand. You had your chance.

Mr Marchese: No, I have a question of the parliamentary assistant, now or after. It'll only take a second.

The Chair: All right. I'm timing you.

Mr Marchese: Given this debate, I really believe we need an opinion from the lawyer of the ministry to confirm much of what your members are saying in this regard. There is a difference of opinion. We hold that strongly. Many who have come to depute feel the same way as I do, that this will lead to discrimination. I'd like a written comment from the ministry lawyer convincing me in one way or another that Mr DeFaria is correct.

The Chair: That's a fair request.

Mr Gilchrist: I will take that request back. I'm sure we can get an answer before the end of the week from legal staff.

The Chair: Ms Veltri, you obviously got the committee going. Thank you for coming.

NOLA HILL

The Chair: There's an amendment to the agenda, the addition of Nola Hill, who is going to speak to us.

Ms Nola Hill: Thank you very much for this opportunity to tell you what I think about what's been going on as a new trailer park owner. I also own seven apartments, a restaurant and campgrounds.

We're presently trying to make a go of it. We had to take over due to my mother's illness, so there was no collateral that normal business owners walk in with. The bank does not just hand you the money and say, "Here you go; you're ready for it." With my mother being sick, we took it over with the meagre funds that we did have, and they're holding the mortgage and they don't want it back.

When I first took over, I had this older trailer park and I have been trying to get rid of the mobile homes in it and phase it out. I was told by the government that I was not allowed to do this. Some of the trailers are owned by us and they're very old, so I haven't wanted to rent them out due to their deterioration. All we've been doing is replacing water lines and everything else.

But what do I do with them? If I sell them, Ontario Hydro won't hook them back up because the wiring isn't suitable. There is no governing that we've been able to find as to how we get rid of these mobiles. We don't see a reason why, if they're moved to another lot, they couldn't be rehooked up if the wiring is suitable. If they're working fine and not blowing circuits all over the place, at least give us the leeway of being able to upgrade our parks if we so wish. But we're told we can't expand, we can't get rid of the trailer park completely, and we're unable to put in cabins to change it to something else. I'm stuck. I could have cabins year-round for my tourism business, but I'm not allowed to do that because I have to keep these trailers; I'm not allowed to give any notices.

1720

To move on, concerning welfare recipients, I've had quite a few at my park due to the apartments, the trailers and so on. I have no problem with this. I have been paid direct by the welfare office for the rent. I haven't had any problems whatsoever. I've never turned one away. As long as they sign a form and welfare says, "Yes, we'll send the money directly to you," there hasn't been a problem. I've been hearing people talk all day today concerning welfare recipients being turned away. I think this would get rid of a lot of unnecessary cases.

We had a family in our park where the mother said that she was renting an apartment off of us, the son said he was renting an apartment off of us, and his girlfriend turned around and said that she was renting a trailer off

of us. All three of these people were getting welfare cheques, separate welfare cheques, for living in these apartments and they were all living in the same trailer. This was unknown to me at the time until the welfare office contacted me, and when it was reported, they did nothing about this. That's where I think if it's "pay direct" it will get rid of a lot of these problems. For the tenant, the tenant doesn't have to worry about finding the money to pay the rent; it's already paid for them. For the landlord, they don't have to worry about the tenant walking out in the middle of the night if the rent is already paid for them. It might be an issue to look into.

Another thing I would really like to stress is that I've talked to very many government people and a lot of them have said government funding is out there for tourism parks like mine, but I haven't been able to find any. I've left my name and my address at the bottom if there is any help. Even a person's name that I could contact would be greatly appreciated.

I'm ready for questions.

The Chair: Mr Marchese.

Mr Marchese: I'll give my time to Mr Gilchrist because he's got a lot to say.

Mr Gilchrist: I appreciate your coming before us, Ms Hill. I believe you were here when I responded to some of your concerns perhaps via the comments we made to the earlier presentation. In no particular order, you've asked a couple of other questions in your presentation here.

If you can be charged for being in disrepair when a tenant complains, is the reverse true? Yes. You have every right to set standards. In fact, the bill clarifies it in subsection 102(2): "A landlord may set reasonable standards for mobile home equipment." So the presentation of the home and its surrounding site is certainly something you have the right to set a reasonable standard for, and once that standard is set and is entered into as part of the tenancy agreement, it will be enforced no differently than will your obligations to the tenant.

Welfare recipients: You may or may not be aware that we have now moved to direct payment to landlords where they request. That regulation has just been brought forward by Community and Social Services, so I may be in advance of myself in saying that the process exists today, but it will, if not today then very, very shortly. So certainly send an inquiry to your local welfare office and they will be more than happy to accommodate that request, precisely for that reason.

Throughout these hearings we've heard people suggest that landlords have a bias against welfare recipients. The facts are just the opposite. At the annual meeting of the Multiple Dwelling Standards Association, which is the association of small landlords, people with units of eight to 12 apartments in a building, those people en masse, in a presentation I made there just about a month ago, agreed that simply moving to direct deposit would not only take away most of the concern they would have, but would actually elevate people on government assist-

ance to being one of the best credit risks they could possibly have. They may get a bit less, but at least they're guaranteed 100% payment.

So this continued mythology that there's poor-bashing, it's just the opposite. There are 150,000 people in this province who are currently paying over 50% of their income towards rent. Obviously that means the landlords of 150,000 units have been accommodating under today's rules, and they don't change. So your comments here are very appropriate.

As for the government funding, I'm not aware of anything directly, but we'll certainly be pleased to go back and see if there's anything vis-à-vis — you also note conversions there. There may be something in the tourism sector, and of course through the northern heritage fund there may be a tourism aspect up here that we could look at. I hope that addresses your questions and I appreciate your making your making your presentation.

Ms Hill: One more question about the welfare recipients, seeing as how we touched on that: What about damages? I have a family that was on welfare. They completely totalled my apartment and the welfare office told me, "Sorry, can't do nothing to help you." They're not held responsible for any damages. I said, "If I was to rent an apartment off of you and I wrecked it, I'd be held responsible." Yet I pay through my taxes to have this welfare family have a home, and then I have to pay to fix up my apartment after they've wrecked it. I said, "Where's the justice?"

Mr Gilchrist: There is a remedy available to all us, and not just for somebody that's on welfare. That's the Small Claims Court.

Ms Hill: She told me I couldn't take them because they had nothing. They had nothing at all.

Mr Gilchrist: They have their ongoing payments, and that's another proposal we've made, to be able to allow court orders to be garnished from future payments.

Ms Hill: That's good.

Mr Gilchrist: Clearly, personal responsibility is something that extends to all of us. It's not something that can be shirked just because your circumstances are somewhat disadvantaged right now, and no one should have the ability to do damage to someone else's property. I've never heard anyone, even the most vocal defenders of social assistance, suggest that was something that should be part and parcel of the social package, the ability to destroy someone else's property. So we've recognized that and we think it's only appropriate that if it takes a Small Claims Court action, clearly that person has to be accountable.

The Chair: Mr Gravelle, you have the last word.

Mr Gravelle: Ms Hill, I apologize for not being here for the earlier presentation made. I wanted to ask you, have you had an opportunity to talk to your provincial member, Frank Miclash? Have you approached him with some of your concerns?

Ms Hill: Yes. I called his office about a year ago and they told me everything was put on hold.

Mr Gravelle: If I may, if it's all right with you, I'll make sure that Mr Miclash gets a copy of your presentation.

Ms Hill: I'd appreciate that.

Mr Gravelle: I will certainly suggest their staff may want to call you, because obviously you've got a lot of areas of concern. Certainly in terms of what the government has done, there has been a considerable amount of downloading, as you know from your own experience. The closing of the MOEE lab in Thunder Bay is one that we continue to be sort of shocked by in terms of the added cost to everyone, let alone the actual incredible

added cost to privatize when indeed the government tends to want to give the impression it will be less expensive to do it. Obviously that's another effect you've had, but I'll make sure Mr Miclash contacts you so you can have an opportunity to talk to him about this as well.

The Chair: Thank you, Ms Hill.

That concludes the presentations today in Thunder Bay. The committee will be continuing with its public hearings in Sudbury at the Ambassador Motor Hotel tomorrow at 10 am. We are staying in Thunder Bay tonight. The plane leaves at 6:45. Checkout, we should be on our way by 5:45. The bus leaves at 5 to 6. Have a good night. The meeting is adjourned.

The committee adjourned at 1729.

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First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

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Standing committee on general government

Tenant Protection Act, 1996

Comité permanent des affaires gouvernementales

Loi de 1996 sur
la protection des locataires

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 7 August 1997

Jeudi 7 août 1997

The committee met at 1001 in the Ambassador Motor Hotel, Sudbury.

TENANT PROTECTION ACT, 1996
LOI DE 1996 SUR LA PROTECTION
DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies / Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

GROUP ACTION AGAINST POVERTY

The Chair (Mr David Tilson): Good morning, ladies and gentlemen. The standing committee on general government of the Ontario Legislature is having public hearings with respect to Bill 96. The first delegation is the Group Action Against Poverty, Bobbie Cascanette. Good morning to you. You can proceed any time.

Mrs Bobbie Cascanette: Good morning. Group Action Against Poverty is a network of people concerned with issues of poverty, mainly because most of us are living with them. We are mutually supportive, creating opportunities for personal and collective empowerment through encouragement, education and the promotion of cooperative ventures. We are some of the people most dramatically and directly affected by this government's enthusiastic restructuring of everything. To be blunt, we want to know what this government has against low-income people. This government seems to have a policy of assuming that low-income people are responsible for the problem, whatever problem you happen to be talking about, and unfortunately, many sections of the proposed Tenant Protection Act reflect this sentiment.

Our presentation is going to focus on the most obvious impact of this legislation in our day-to-day lives, highlighting situations we most commonly have to deal with. We have read through the proposed legislation in the long form, and much of it we find confusing, making reference to other acts and legislation that we are not familiar with. This is a common problem. We need help in interpreting the laws. We do not have the expertise to critique the legal technicalities or governmental details and we shall not pretend to. For these issues we defer to the expertise of the Legal Clinics' Housing Issues Com-

mittee and the Centre for Equality Rights in Accommodation.

We are really hoping that the government will reconsider some critical sections of the proposed Bill 96. Working on the theory that the government is truly trying to improve the legislation for all concerned and not just responding to a high-pressure landlord lobby, we respectfully submit the following recommendations.

(1) Eliminate the use of income information to determine eligibility. A landlord has the right to check references and credit ratings. We find that this is reasonable and do not dispute it. However, even though it is presently illegal to discriminate based on income, it happens consistently. We tell you this based on our own life experience. This discrimination takes a variety of forms: There are landlords that won't rent to you at all, despite a good tenant record. There are landlords that will rent to you but then feel no necessity to maintain the premises, as they know that your resources to enforce your rights are limited. There are landlords that constantly violate a tenant's right to notice upon entering the premises, again knowing your options are limited. We won't use all our time detailing the many forms of harassment and discrimination we have to deal with. Not all landlords discriminate, but making income disclosure legal ensures those that do will have no problem identifying their victims. Think about it. If you are inclined to take advantage of people, are you going to victimize somebody with the resources to fight back?

Furthermore, when you combine this with other changes this government has made or is planning to make, it becomes even more devastating. With the current levels of social assistance and its division of housing income and living allowance, absolutely no social assistance recipient will meet the criterion of their rent being no more than 30% of their income. Or a landlord could decide they prefer to rent to a social assistance recipient and collect the direct payment to landlords proposed in the Social Assistance Reform Act, effectively rendering a low-income tenant powerless in any landlord-tenant disputes. Either way, we see no benefit and a lot of harm if the landlord is in legal possession of this information.

Studies show that most social assistance recipients put their rent as a priority even over food. Believe us when we say that having a roof over your head takes on whole new dimensions when you are poor. Being poor is its own barrier to finding shelter. What possible non-discrim-

inatory advantage is gained by a landlord knowing the income source? We can picture the classified ads now: "For rent, one two-bedroom apartment, close to bus routes and schools: \$600 a month plus utilities. Social assistance recipients and working poor need not apply."

(2) Include rent controls for new tenants. Giving landlords the right to increase the rents with new tenants is almost worse than no rent controls at all. Please do not take that as a suggestion to remove rent controls. Remember that we're talking about landlords who are less than completely ethical, which is who the Tenant Protection Act is theoretically designed to deal with. No matter how many laws we put in place to avoid it, determined landlords can find all kinds of ways to make your life miserable if they want you out. Unlimited rent increases for new tenants give unethical landlords an incentive to evict existing tenants.

(3) Limit the landlords' ability to pass on increased property taxes. Downloading: I wrote this before the news last night, but we just found out that we're looking at a 25% increase here, and though this government consistently denies it, downloading is going to result in municipalities being forced to increase property taxes. The Tenant Protection Act creates a direct line to pass this expense on to those least able to afford it. In case you missed it, "low-income" means that we have no money. Increased rents and decreased incomes are resulting in multi-family dwellings at best, which landlords do not appreciate, and homelessness at worst, which we don't appreciate.

(4) Include a minimum maintenance standard for all of Ontario. Unethical landlords are in it for the money. Maintenance is an expense that can cut into immediate income. For whatever reasons, very often unethical landlords do not appreciate the long-term value of maintaining their investment. We could bury you with examples of poor maintenance that many of us are already tolerating because it's too difficult to get the current legislation and regulations enforced. This legislation effectively removes any incentive or threat of punishment that could inspire a landlord to maintain a property. To rub salt in the wound, very often low-income tenants are stereotyped as slobs with no respect for property when the problem is a lack of maintenance on the part of the landlord.

(5) Commit the proper time and resources to the proposed Ontario Rental Housing Tribunal. We're not sure what the government's intention is in replacing existing watchdog bodies with government-appointed committees, but our experience with the family support plan makes us very, very nervous about any restructuring of this nature. To the best of our understanding, the new tribunal will take on the caseload of the rent control board and the caseload that currently goes to the courts, and they are going to be doing this on the same budget that the rent control board currently receives. That's comparable to the current rent control board, with its present delays and backlog, taking on 65,000 more cases a year. Combine

this with legal aid and legal clinic cuts and you have virtually eliminated any reasonable recourse for low-income tenants. Sometimes the threat of legal action has been enough for us to instigate change. If landlords know that legal action will be next to impossible, we will lose a valuable tool for resolving disputes.

(6) Protect tenants' rights to privacy and control over who enters their home, and when. This covers two points.

(a) The right to change the locks if the tenant feels it is necessary: This is most common when a tenant first moves into a residence or when a partner or a roommate moves out. Many landlords are reluctant to change the locks because of the expense, the whole \$22.98, but for tenants this is a priority security issue. How would you like not having control over how many people had a key to your home?

(b) Proper notice and permission to enter the premises: You would think a landlord would understand that a rental unit is a tenant's home, that agreeing to rent the unit is entering into a contract with a tenant and that the tenant has control over that property during their occupancy, excluding doing wilful damage to the property. But some landlords are worse than nosy fathers with teenage daughters and this is also one of the most common forms of harassment.

1010

To summarize:

(1) We don't want it to be legal to discriminate against us.

(2) We don't want our landlords to have incentives to evict us.

(3) We don't want to foot the bill for the 30% income tax break. Correct that. We can't afford to foot the bill for the 30% income tax break.

(4) We want our residences to be decently maintained.

(5) We want access to legal recourse in case of landlord-tenant disputes.

(6) We want to have security and privacy in our own homes.

We are not asking for anything unreasonable here. We find it unreasonable that a document titled the Tenant Protection Act does not already address these issues. There seems to be no appreciation of the power imbalance between landlords and tenants. It's important to remember that landlords become landlords by choice. Tenants are tenants out of necessity. This is a crucial point. At worst, landlords are inconvenienced by a dispute, possibly losing some money. Tenants can end up harassed, terrorized and ultimately homeless.

With the remaining time, we would like this committee to explain to us why these issues are not addressed in the proposed Tenant Protection Act and why we have to be here at all, hat in hand, asking for our province's laws to reflect a standard of common human decency.

The Chair: Mrs Cascanette, you have given a concise report on your position and you have allowed time for questions. Are you prepared to entertain questions from the committee?

Mrs Cascanette: Could I get a response on why these weren't —

The Chair: I'll tell you the process that we have. We allow each caucus to ask questions and you're free to respond or ask questions of anyone you wish. We'll start with the New Democratic caucus.

Mr Rosario Marchese (Fort York): I would like to, first of all, thank Mrs Cascanette for her presentation and for the work she does in representing people who are poor. I want to give my time to the Conservative member, the parliamentary assistant, to assist you in answering the questions you've raised.

Mr Steve Gilchrist (Scarborough East): Thank you, Mr Marchese. I'm more than happy to do that. Let me deal with them in order, if I can.

First off, section 200 in no way changes the existing Human Rights Code's prohibition against discriminating on the basis of source of income. I know that a number of critics of this bill are suggesting otherwise in their mailings. That is patently untrue. This section says — and then there's a follow-up section. The second part of the clause says that the regulations will be set that guarantee that even the income check cannot be used to discriminate in any way, shape or form, and none of the existing protections by source of income — for example, right now it is illegal to discriminate on the basis of source of income, so if someone is on government assistance, a landlord can't hold that against you. If you're aware of any landlord doing that, then I would be more than happy to assist you in pursuing that through the Human Rights Commission because that will continue to be the case.

Mrs Cascanette: Could I ask then, sir, what benefit is gained by them doing an income check?

Mr Gilchrist: Very simply, the case has been made by many tenants coming forward and saying they recognize that there may be someone with either a bad credit history or no credit history at all and to not have the ability then to say, "Okay, convince me that you are a good potential tenant, because nothing in the check of previous landlords, nothing in your credit check gives me that assurance." You would ask us to deny people the opportunity to say, "I just got a new job and here's what I make and I guarantee to do that."

Mrs Cascanette: Sir, that's voluntarily offered information. This gives the landlord a way to check it.

Mr Gilchrist: No, I'm sorry, the way that our critics would like it expressed, you would not be allowed to ask the question.

Mrs Cascanette: If a landlord wanted to ask, "Prove to me that you're a good risk," the tenant could offer the information that "I just got a new job," etc?

Mr Gilchrist: There's nothing that would force a prospective tenant to give that information now. Again, the landlord can ask and you can say, "No, I'm not going to tell you that." But if you have nothing else in your credit history that would convince the landlord that you're a good risk, it would seem to me folly to not volunteer that information.

In the limited time, let me talk about some of your other points here as well.

The property tax issue: First off, Sudbury is not going up 25%. Second, it is true here in Sudbury, as it is in every part of this province, that the municipal governments are charging on average four times more property tax for the same area in an apartment that they would in a single-family home. It's quite ironic that these people turn out — in Toronto we had three city councillors come and talk about how bad this bill is.

At the same time not one of them, even in this current election, never mind retroactively, is campaigning on a platform to bring fairness. In Scarborough, for example, if that fairness existed today, the average rent for an apartment in Scarborough would drop by \$125 a month. That's how big a differential we're talking about, over a 20% reduction for every apartment in Scarborough. That's just staggering.

The fact of the matter is it's not covered in this bill, but we've given the municipalities the tools to bring that fairness in there. I would encourage you to ask every candidate for municipal office this fall where they stand on that issue and whether this January 1 they will move to bring about a change in their property tax regime so that homeowners and apartment residents are dealt with on the same principle and with the same fairness. It's in your interests to do that.

Mrs Cascanette: If we don't get the municipal government to do something differently, then it's going to stay the same, that it's completely straight to pass that right on to the tenants.

Mr Gilchrist: Property tax has always been a municipal authority.

Mrs Cascanette: The point in my presentation, sir, was that the way you're setting up rent increases, any property tax increase — we're going to have to agree to disagree on that — that might result in the future, from anything, can get passed on directly, with no barriers to passing it on.

Mr Gilchrist: And every decrease will be similarly passed on.

Mrs Cascanette: We don't get them, sir.

Mr Gilchrist: You may be pleasantly surprised in the next couple of months.

Mrs Cascanette: I would be shocked.

Mr Gilchrist: Maintain a minimum standard in Ontario: It's in subsection 24(1). Subsection 24(1) of the act specifically says just that. I don't think it could be clearer. If you don't have a copy of the act itself, I would be more than happy to share mine with you.

The final thing is that you talked about privacy issues. Quite frankly, there's a very simple reason. If you're in an apartment building where the same key is involved in the common entrance, for example, or if there's a master key, then clearly one tenant can't go and change a lock if the landlord's master key or the tenant's key to the entrance then is inapplicable. The bill says that if the lock is

changed, the landlord must immediately give a copy of the key, not to anyone else, to the tenant.

Mrs Cascanette: The common area, where this becomes a problem, is relevant to the door of your own apartment. It really is an issue for us to get permission, because under this new act we have to have the landlord's permission to change the lock. This is to help us deal with those who are unreasonable for reasons that are beyond our understanding. If we can't change the lock at our own instigation, very often we can't get their permission.

Mr Gilchrist: Would you then suggest that the act have an amendment to the effect that a tenant would have the right to insist the landlord do it — I'll let you speak to the time period you think would be reasonable: 24 hours, 48 hours — obviously with the tenant picking up the cost if they want that lock voluntarily changed? But then the landlord could still control issues such as the master key or if there's a common key to enter the building itself. Both sides would be appeased with that.

Mrs Cascanette: For the tenant picking up the cost, if it happens during their tenancy.

Mr Gilchrist: Yes.

Mrs Cascanette: But when it's moving in, you should have new locks, because you have no control and that should be at the landlord's expense.

Mr Gilchrist: I don't disagree with that fundamentally. The scenario we keep getting is if there's an abusive relationship and someone who may have a key leaves in the middle of a tenancy. If you think that's reasonable, I'd be more than happy to take that back as a proposal that we could amend the bill.

Mrs Cascanette: Definitely as a proposal that the tenant can change the lock. I would like to have more consideration. In an abusive relationship, that's when income is the most crucial. You can't legislate it, but unfortunately there's often not a lot of sympathy to help in that situation. Sometimes the \$22.98 is a fortune in an abusive relationship because they've been left with no income. So to change the locks is a big deal.

Mr John Gerretsen (Kingston and The Islands): Just a couple of comments: Getting back to this income information, it's kind of interesting that the Ontario Human Rights commissioner, Mr Norton, a former prominent Conservative cabinet minister over a number of years, has some very serious concerns about this. I haven't got the exact wording he used, but I heard him speak before the committee just three or four weeks ago and he certainly thinks the Ontario Human Rights Code may very well be violated as a result of the new provisions that are being suggested here.

As far as taxes are concerned, I don't know, but when just about every municipal politician in this province says there's a downloading of about \$600 million, and even some papers were reporting yesterday —

Mrs Cascanette: It's when the bureaucrats agree with them.

Mr Gerretsen: — it is \$900 million, which is even higher than I thought it was, it's kind of interesting that

the province is saying, "Don't worry about it, there's not going to be an extra downloading." There will be downloading, or if they are somehow able to find the money it will mean fewer municipal services. You can't have it both ways. I wonder if you have any comments on that at all.

Mrs Cascanette: Last year, locally, before the downloading, we went through 30 service cuts and 20 user fees. I don't care — a rose by any other name. This is what we went through in our last year's budget. This year coming up, when the bureaucrats agree — I've been trying to deal with them for the last year or so. Normally they really do a good job on following the provincial government's line, and when the bureaucrats are agreeing that we can't cover it, I really get scared. We are going to have that extra expense and we are going to have to find ways to cover it.

1020

The way it's going, it's being covered by user fees, it's being covered by cuts to services, and all of that lands on the low income. As much as everybody talks about the low income being a drain on society etc, if you keep smashing us down, we'll never get up. That's what's ending up happening. If we don't have proper access to services, if our garbage is not collected and maintained, if we can't get around our city because our bus service is being cut and our rents and taxes are going up — we spend so much time just on daily existence, forget about us getting off assistance. We don't have the energy left.

Mr Gerretsen: Taking into account the fact that this downloading's going to take place, do you have any concerns, particularly with the group you represent — I assume a lot of your members are residents of public housing —

Mrs Cascanette: Yes.

Mr Gerretsen: — that the public housing portfolio in effect will be handed to local municipalities, taking into account the kind of economic pressures they are already going to be under?

Mrs Cascanette: Yes, we've been watching that situation very carefully and we really hope Mr Chrétien holds on to that and doesn't hand it down, because it will land on the municipalities and we can't afford — the way things are right now, there's so much confusion and everybody's trying to sort things out, that we're not even covering what we already have. So if we take on the added expense of public housing, we're afraid it is going to disappear, and when it disappears our housing situation — we have a high vacancy rate here in Sudbury. You wouldn't know it by the low-income community. We have people who are looking for apartments, for places to live for two, three to four months, and when they find something they're taking whatever they get. Public housing is a better option, and when that disappears, our situation gets more desperate, and we are afraid it will happen.

The Chair: Ms Cascanette, the committee thanks you for making your presentation this morning.

Applause.

The Chair: Just for the future, ladies and gentlemen, the rules of the committee don't allow applause. Even though you might want to applaud or boo someone, it's not allowed. I'm afraid you'll just have to refrain from doing that.

SUDBURY COALITION FOR SOCIAL JUSTICE

The Chair: The second delegation this morning is the Sudbury Coalition for Social Justice, Dan Saumur and Lori Jo Flood. Good morning to you. You may proceed.

Mr Dan Saumur: Good morning, everyone. On behalf of the Sudbury Coalition for Social Justice, I would like to thank the committee for the opportunity to speak on the subject of the legislative amendments proposed by Bill 96. My comments will focus on amendments within Bill 96, specifically those that threaten the protections currently guaranteed under the Ontario Human Rights Code.

But before I begin that, I'd like to introduce myself and our organization. My name is Dan Saumur, I'm 34 years young and I have lived most of my life here in Sudbury. I'm a maintenance employee with the Sudbury District Housing Authority and vice-president of Local 3096 of the Canadian Union of Public Employees, which represents about 900 public housing employees across Ontario. I have also worked for the Ontario Housing Corp as a workplace discrimination and harassment prevention adviser-trainer. I have received specialized training from both CUPE and OHC in the prevention of discrimination and harassment. I am the proud father of twin daughters, and I'm also a landlord here in the Sudbury district.

The Sudbury Coalition for Social Justice was formed approximately two years ago. We have over 200 active members, from the ranks of organized labour, the community and interfaith organizations. We were the principal organizers of the Sudbury Celebration of Resistance this past March. These days of action against the policies of the Harris and Chrétien governments sparked the largest street demonstrations ever held in the history of northern Ontario. This meant that many people who previously would never have marched in a demonstration did so because they disagree with the present government's agenda.

The Sudbury coalition's resistance to the agenda of the Harris government is shaped by a strong vision that we have for the kind of society in which we want to live. We believe that many people in Ontario share this vision. Current government policies are progressing towards a dangerous society, one that pits an ever-growing number of people who are losing ground against a small élite who are benefiting from these policies. This will inevitably take us down the same road as has happened in the United Kingdom and the United States where large numbers of homeless people and a mounting climate of hopelessness

and despair will translate into an unsafe and unproductive environment in which to live.

The Common Sense Revolution cleverly disguises its real aim: the creation of an exclusive society that primarily benefits one special interest group in Ontario — the wealthy and powerful. Our vision of society takes us down a different road.

We want to live in an inclusive society that gives all people hope; gives all people access to services and opportunities to live healthy and positive lives; promotes wellbeing for each and every child, woman and man regardless of their age, gender, race, sexual orientation, class, culture or ability. We want to live in a society that has people working together for the collective benefit of all its members, and supports and cares for those unable to support themselves. We want to live in a society that respects and nurtures diversity. Finally, we want to live in a society that builds on its own history of bringing social justice and equal opportunities to its members, rather than abruptly dismantling this history, using fearmongering and divisiveness as its tools.

The coalition is especially pleased to have this rare opportunity to speak directly and bluntly to some of the elected members of the Harris government. As you're probably aware, there was only one sitting member north of the French River from the Progressive Conservative Party before the last election, and there is only one Conservative member in the current House: Premier Mike Harris himself.

I wonder if the government members on this committee could raise their hands so it's clear to all of us just who you are, so I can look you in the eye while I make the coalition's presentation. Thank you.

I think it's deplorable that these hearings are being held here today on this issue at all. I think these proposed changes to the Landlord and Tenant Act are part of a number of measures, including reductions to social assistance payments and the Ontario Works program, also known as workfare, which target the disadvantaged in our society. Instead of accepting the larger challenge of attacking the root causes of poverty and inequality in our society, the Harris government has adopted the small-minded and mean-spirited approach of attacking the poor themselves.

We're well aware of the government's rhetoric concerning the need to cut public spending so as to reduce Ontario's deficit, and we've long suspected there's a hidden agenda that comes with the rhetoric. These proposed changes to the act confirm our suspicions. They greatly enhance the rights of landlords at the expense of tenants, especially low-income tenants. These proposals will have no impact at all on the deficit, but they will benefit the already privileged class in our society, and we think that's what the so-called Common Sense Revolution has really been about all along.

What we have here is one special interest group in Ontario, mainly straight white males with financial resources and privileged class and educational

backgrounds, choosing to enrich themselves even further, and others like them, at the expense of women and children, young people, first nations people and disabled people, to name just a few of the groups who are suffering under the policies of this government. At best these policies are short-sighted and self-interested, and at worst they are downright cowardly.

In my work experience with the Sudbury District Housing Authority, I had an opportunity to work in the tenant placement department for about eight months. I met a large number of applicants and many of them paid a large portion of their income towards rent, even as high as 75%. When we offer a unit, standard practice is to check landlord references. Most often these potential tenants would receive an excellent reference. This, to me, proves that income information has no bearing on a tenant's ability to pay rent.

1030

Authorizing the use of income information to disqualify potential tenants will have disastrous consequences for many disadvantaged people. Studies show that minimum income criteria have an adverse impact on Ontarians on the basis of their gender, marital and family status, age, citizenship, race, immigration status, place of origin and people in receipt of public assistance. Studies also show that if the 30% rent-to-income ratio were applied, all persons in receipt of public assistance would not qualify for an apartment.

We are not opposed to landlords checking prospective tenants' credit and rental history when available and refusing to rent to tenants on the basis of a negative record or reference. We also do not dispute a landlord's right to require a guarantor where there is a bad credit record or reference. But the effect of including income information is beyond the right of landlords to assess creditworthiness, giving them the right to exclude whole classes of people and entire groups currently protected by the Human Rights Code on the basis of their income. We have come a long way in Ontario in reversing discrimination and harassment and this amendment will set us back 40 years.

As stated earlier, Keith Norton, chief commissioner of the Ontario Human Rights Commission, stated publicly that including income information as a permitted basis for disqualifying prospective tenants will effectively authorize discrimination against people on public assistance. It will wipe out the protection provided by the code on the ground of public assistance for all practical purposes. Commissioner Norton also stated that discrimination against social assistance recipients and the poor is one of the most pressing human rights issues of the decade.

A survey conducted by N. Barry Lyon and Associates found that most landlords use credit checks and references, but most do not use income information to select tenants. Surveys have shown that the affordability problem is almost always the result of a change in circumstances and therefore could not have been screened at the time of application for tenancy. Job loss or reduction in wages or salary or the onset of illness are

obvious examples of causes of default. Rent-to-income ratios do not predict these types of events. Any change in circumstances for a social assistant recipient is likely to be favourable, so to exempt them would not make good business sense.

Rental default in the real estate business is almost always less than 1% of gross annual income. Most businesses have bad debt, and bad debt of less than 1% of income is well within the acceptable range. These proposed changes are, in summary, discriminatory, in violation of the Ontario Human Rights Code and wholly unnecessary from a business point of view.

We had planned to have two tenants' perspectives for you to accompany this presentation, but they are low-income tenants and can't afford cars. There was some mixup in the arrangements for transportation, so Lori has volunteered to help with the presentation this morning.

Miss Lori Jo Flood: My name is Lori Jo. I'm 23 years old and a low-income earner. From my perspective of being low income and being a tenant, all I can say is that Bill 96 is legislated discrimination, especially when you consider that 35% to 65% of a social assistance recipient's and/or low-income earner's monthly income is spent on rent. With the proposed changes that state that if you pay over 30% of your income in rent you can be denied the apartment, I believe that many of us will no longer have access to decent housing. Whether I'm on social assistance or earn a low income, I feel that I should not have to disclose that type of financial information to a stranger just in order to look at an apartment that I'm considering renting. My pay stubs tell only of my financial situation and nothing about my character. References would tell the prospective landlord more about me and my character than any pay stub would.

Finding affordable and suitable housing is an arduous task. I have lived in apartments that have been flooded with sewage, that have improper fire escapes — in two of the apartments there was no way out other than the front door — apartments where the foundation was buckling, causing the floors to slant, and where the windows and frames were literally falling out. With the proposed changes to sections 110 to 134, a landlord could increase the rent without repairing any of these things. I ask you, is this fair?

Tenants will no longer have the right to apply for a rent decrease when the cost of the unit's utilities go down. The landlord charges an amount based on his or her expenditures and one of these is utilities. It would be illegal for the utility companies to charge landlords for utilities that were not being delivered, so why would it be legal for a landlord to charge a tenant for utilities that were not being delivered?

Unfortunately, when we tenants move into a building, we expect that the landlord will be honest and fair because many of us do not know all of our rights. With the changes to sections 37 to 85 — I quote the Coalition to Save Tenants' Rights, the Summary of the Tenant Protection Act: Bad News for Tenants — "As well, the warning that

tells tenants that they don't have to leave right away is no longer required." Many people are not aware that they have 14 days they can use to appeal the eviction or to find a new apartment.

With these changes and others that are proposed in Bill 96, it will be harder to find affordable housing and to keep the housing we already have. The rights of the tenants must also be considered with the rights of the landlords. These changes are wrong and they may prevent our society's most vulnerable people from obtaining affordable, decent homes. A decent, affordable home is one of the most crucial aspects of a quality of life that we all deserve, even those of us who are at the bottom financial bracket of society.

The Chair: Thank you. Mr Saumur, that's your presentation?

Mr Saumur: Yes, it is. Do you have any questions?

The Chair: I'm sure the committee does. We have a chance for a brief statement or question from each caucus.

Mr Wayne Wettlaufer (Kitchener): Thank you both for coming today. There is a great deal of misconception, I think, and certainly a lack of understanding between landlord and tenant. I'm not going to defend either one. I've been both and may be a tenant again very soon.

You talk about rental default in the real estate business, almost always less than 1% of gross annual income, and that most businesses have bad debt. The average return on equity for a landlord today is between 2% and 4% in the province of Ontario. I want you to understand that 80% of buildings are less than 10 units. Most of these buildings are owned by people who came here after the war, in the 1950s and 1960s, immigrants. They are people who have their life savings tied up in these buildings. On a return on equity of 2% to 4%, they can't possibly maintain a decent residence for anyone, especially you. I personally would not want to live in a building where the balcony was falling down or the garage door wouldn't open when I needed security. I want to be in my garage, I don't want to be outside.

The Chair: Thank you, Mr Wettlaufer. Mr Gerretsen.

Mr Gerretsen: How long do I have?

The Chair: About as long as he had.

Mr Gerretsen: I think it's very interesting. If he's saying the landlords are only making 2% to 4%, I assume that what he's saying is they're not making enough. So basically what this is all about is to increase rents across the province. That's got to be the bottom line.

Mr Wettlaufer: I didn't get a chance to finish, and you know that.

Mr Gerretsen: Well, I can't see why you would say that otherwise, if they're not making enough.

Let's admit there are some bad public housing tenants and there are some bad rich tenants. You get bad and good in every group of society, whether we're talking about workers or tenants or what have you. But I think this income reference here is based on the fact that somehow there seems to be this belief around that people with low incomes don't pay their debts. As Mr Norton clearly

indicated before the committee, there's absolutely no proof of that whatsoever. Just as many rich people default on payments as poor people and vice versa. Do you have any comments on that at all?

Mr Saumur: I agree with you 100%. There's no evidence of that. Even the landlords now who are using income information are in a very small minority and I've seen — I'll just get you the name — N. Barry Lyon and Associates found that the people who have used this information haven't benefited from it at all. I've seen the report.

1040

Mr Marchese: I just wanted to make some statements, and by and large I agree with most everything you have said. What we've seen here are two types of camps: the landlords, those who want to develop and want breaks from governments, and the Conservative members and, on the other side, everybody else. Most of us are in agreement that this bill is for landlords and not for tenants. It protects a specific privileged group of people who don't need much help.

Mr Wettlaufer was representing the view of the poor landlord who is only making 2% or 4%. We believe that figure varies. It's quite possible some people are only making 2% or 4% profit every year, although most people's wages have gone down. They haven't increased in the last six years. People haven't had an increase of a wage in the last six years.

So I just wanted to agree with you. I think tenants need protection. This bill that speaks of tenant protection is not for tenants, it's really for landlords, and I think you've got the right perspective on this bill.

The Chair: Mr Saumur and Ms Flood, thank you for coming.

Mr Saumur: Could I just respond to the comment?

The Chair: Very briefly, yes.

Mr Saumur: Very briefly, the 2% to 4% that Mr Wettlaufer says landlords are earning, the key is that there are many investments that people can choose to invest their money in. If the real estate market is not profitable, then why are they there? Why are they doing it? Low-income people don't have a choice; they have to rent apartments, they have to live somewhere. And most of the low-income people wouldn't have apartments with garage doors.

The Chair: Thank you, Mr Saumur.

LEGAL CLINICS' HOUSING ISSUES COMMITTEE

The Chair: The third presenters today are from the Legal Clinics' Housing Issues Committee, Wendy Bird and Mary Garrett. Good morning. You may proceed when you're ready.

Ms Wendy Bird: Thank you. Ms Garrett and I are here today representing, as you announced, the Legal Clinics' Housing Issues Committee. This is a province-

wide organization representing tenant advocates. We do not anticipate being able to sway the government to our view concerning rent control and rental housing protection; however, we wish to emphasize that the elimination of rent control, which this bill effects, creates a powerful financial incentive for landlords to evict tenants by any means.

Contrary to government assurances, the inevitable result will be the elimination of meaningful security of tenure. The undermining of rent control, together with the repeal of the Rental Housing Protection Act, will result in a dwindling supply of affordable housing in Ontario. This can only lead to an increase in homelessness in Ontario and to the further impoverishment of an ever-larger segment of our already vulnerable population.

Our written submission focuses primarily on jurisdictional and procedural issues. We believe there are many incidental changes which have a significant but unintended negative impact on existing rights and obligations. This is the result of combining two very different pieces of legislation: the Landlord and Tenant Act and the Rent Control Act. Today, because of time constraints, we will cover only a few areas contained in our submission.

Concerning human rights, we endorse and support the submissions presented to this committee by Keith Norton and the Centre for Equality Rights in Accommodation.

The first issue that I want to address is the treatment of tenants' personal property. We find that the Tenant Protection Act's treatment of tenant property is fragmented and lacking in purpose. There is no accountability and it opens the way for serious abuse. The Tenant Protection Act contemplates the seizure of property in four separate situations: vacating tenants, abandoning tenants, mobile home park tenants and dead tenants.

Under the unproclaimed Residential Tenancies Act of 1979, there was one scheme to govern the seizure and sale of abandoned property of a tenant. The Tenant Protection Act now provides no single scheme. In this regard it is an example of sloppy and unintegrated drafting. There is also no monitoring of the process, and there are few safeguards against abuse. Moreover, it is landlords and not the crown who will have the benefit of any excess proceeds which are not claimed by tenants. It is the landlord who has a free hand to sell or dispose of tenants' property without any accountability.

In terms of mobile homes, a section dealing specifically with abandoned land-lease or mobile homes is new. The ability of a landlord to deal with a home is not as immediate as the landlord's ability to deal with the other personal property of tenants in other situations; and in this case, the tenant has the right to claim the proceeds of the sale of the home above expenses and any rent arrears owing or to recover a home that the landlord has personally retained if the tenant comes forward within six months. But if the landlord has disposed of the home by gift or has sold it for an amount equal to his expenses, there is nothing the tenant can do. There is no recovery. There is no requirement that the landlord act reasonably or

responsibly. There is no supervision by the tribunal; indeed there is no administrative remedy at all provided in the Tenant Protection Act. This act opens the way for serious abuse.

While there is no question that abandoned property needs to be dealt with in the act, the legislation seems to give an excessive windfall to landlords, especially to mobile home landlords. A mobile home or land-lease home is an expensive structure, of far greater value than most items of furniture or other personal effects in other rental situations. If the property is sold or disposed of for less than market value — for example, given to a child, spouse, friend or relative of the landlord — the former tenant is out of luck. There is nothing to recover from the landlord.

Only if the landlord retains the property for his or her personal use can the tenant recover it. If the property is sold or disposed of, only the excess of the landlord's expenses and any arrears of rent is recoverable. Since there is no obligation for an accounting and no obligation that the landlord receive fair market value for the sale of the home, this remedy is minimal. Moreover, the tenant or the estate of a dead tenant must come forward within six months; otherwise, even this minimal recourse is lost.

In terms of dead tenants, the Tenant Protection Act deems the tenancy to be terminated 30 days from the date of death if there is no other tenant of the premises. Where the tenant is a mobile homeowner, these provisions do not apply. In many cases, the 30-day period will not give the executor or the estate administrators time to adequately deal with the property and affairs of the deceased.

I would like to give an example of the problems that are inherent in the legislation. For example, an elderly tenant dies and no one else lives with the tenant; 30 days after the tenant's death, the landlord can start to deal with the tenant's property. An estate may not be able to be wound up and the unit vacated within the 30 days. There may not be close relatives or relatives may live far away; the will may not be located immediately, so no one is sure who has the authority to act for the estate; and of course there's a funeral to arrange. At the end of 30 days the landlord can enter the premises and remove all the dead tenant's belongings. The landlord can give everything away to his friends and family; he can sell everything for the amount of the rent arrears owing. The estate has no way to stop the sale or gift of the dead tenant's property. The estate can only claim the excess proceeds from any sale. In this case there may be none.

The landlord is expressly within his rights to act like this under the Tenant Protection Act. The landlord is expressly absolved from any liability for these actions under the Tenant Protection Act. This is an absolutely shocking scenario but perfectly within the law under the Tenant Protection Act. There is no remedy in the Tenant Protection Act by which the estate can gain access if the landlord refuses, although it's contrary to the act; nor is there any remedy if the landlord disposes of the property before the 30-day period is up. As in so much of the

Tenant Protection Act, there are rights but there are no remedies.

The present bill promotes animosity between landlords and tenants, irresponsibility and injustice. Frequently, tenants' personal possessions are their only assets of value. There should be one scheme, with minor variations for mobile homes and land-lease homes because of their value. There is no reason to treat those who vacate legally differently from those who abandon the premises. The process should be subject to close supervision by the tribunal. There should be a remedy of relief against forfeiture available to the owner of the property at every stage. Sale of property must be to a good-faith, arm's-length purchaser at reasonable market value. A landlord should not be absolved of liability where the landlord fails to deal fairly and reasonably with the property of its owners.

On another issue concerning mobile homes, I wish to make only a few brief comments, as I'm sure there will be other submissions today dealing with this issue. The date of termination of a tenancy in a mobile home park or land-lease community under the Tenant Protection Act is to be at least one year and not before the end of the period or term of the tenancy where the notice of termination is for demolition, conversion or repairs.

1050

This is an attempt to make up for the removal of the Rental Housing Protection Act coverage. While it does recognize the unique considerations involved in moving a mobile home, it does not go far enough. If there is no other site to move to, the tenant is still going to lose a major investment, and this is only delayed to a later date. It also does not help with the often prohibitive expense of moving. Most mobile home park tenants live there because they have low incomes.

We suggest that suitable alternative sites must be available before a tenant-owner in a mobile home park or land-lease community ought to be subject to eviction on this ground. Alternatively, the landlord who is seeking to convert, repair or demolish the premises should be required to compensate tenants for any losses they suffer regardless of whether the conversion, demolition or repair has been ordered by law.

In terms of repair and maintenance standards, the Tenant Protection Act diminishes the role of the provincial maintenance standard. It now only applies to unorganized areas and to municipalities which do not have any property standards bylaws. It also will apply to areas meeting the prescribed circumstances. Unfortunately, we don't know what these circumstances will be.

The Tenant Protection Act now allows landlords who have outstanding work orders to collect rent increases. This is prohibited under the Rent Control Act at present and it has been proven to be a significant incentive to get landlords to make ordered repairs. The removal of this incentive is counterproductive to the effective, efficient and cost-effective enforcement of maintenance standards. It suggests the government is not serious about such enforcement.

The Tenant Protection Act downloads more responsibility to municipalities to resolve repair and maintenance problems. The act does significantly improve a municipality's ability to enforce property standards bylaws, conduct inspections and go in to do repairs and collect the costs from landlords through property taxes, but it does not require municipalities to do this work. The duty must be mandatory before tenants will have adequate protection from lack of adequate repair.

Municipalities which were active in the area of property standards have generally cut back on these services because of cost and reduced transfer payments from the province. There is no reason to believe they will again become more active, with no new resources from the province, and every suggestion that they will not. Those who were never active in this area certainly have no incentive to become active.

The Tenant Protection Act fails to mention other order-issuing bodies. Presently, the Rent Control Act requires that other order-issuing bodies send their orders to rent control. Such bodies are Ontario Hydro, elevating devices, district health units and so on. Budget cuts may have reduced the effectiveness of these organization.

Generally, the Tenant Protection Act puts more of an onus on the tenants to enforce their rights to require landlords to carry out repairs. This is a concern when the Tenant Protection Act also encourages landlords to evict tenants so they can raise the rent because of elimination of rent control on vacancy. Tenants will usually be more hesitant to enforce their rights in the anti-tenant climate engendered by the Tenant Protection Act.

Ms Mary Garrett: For those of you who are following our brief, I'm at page 11. I'm going to talk about the general procedures and jurisdiction.

The new tribunal's procedure is to be governed in part by the Statutory Powers Procedure Act. Other procedures are set out in the TPA itself, but many important procedural issues are left for the future development of rules of procedure by the tribunal. The tribunal is also empowered to make guidelines. This makes an informed discussion of procedures before the tribunal almost impossible at this time. Substantive rights, without clarity and fairness of procedure, are an empty benefit.

As under the Landlord and Tenant Act, there is very little procedure set out in the Tenant Protection Act. Much is left to be announced in regulations, rules and guidelines. Tenants and landlords must have input into the formulation of these regulations, rules and guidelines. This includes input into the drafting of the various forms required under the Tenant Protection Act.

Tribunal: The transfer of jurisdiction to a tribunal is both an attempt to save money and to alleviate pressure on the court system. We had hoped it was also an attempt to provide a fairer, more equitable system of justice. A leaked Ministry of Housing document raises serious concerns about the government's commitment to a high-quality quasi-judicial process to replace the court system. It suggests that this will be quick and dirty justice or, more

likely, injustice. Contemplated time frames for important and complex legal proceedings of 20 minutes, 30 minutes and 40 minutes are nothing less than an affront to the people of this province. No experienced advocate could ever have devised such time frames in good conscience, and likewise, no government ministry should endorse them.

I would ask you, when we're finished, to take a look at appendix A. I'm not going to get into it right now, but I can guarantee you'll hear more about it tomorrow in Ottawa.

I'm going to go to page 14 now, to the mandatory refusal of evictions.

Another significant undermining change to part IV of the Landlord and Tenant Act jurisdiction is the fact that the mandatory refusal of a writ of possession under subsection 121(3) of the Landlord and Tenant Act has been changed. The section is still mandatory. However, the reasons in clauses (b) to (e) have been changed so that these must be "the reason" rather than merely "a reason" for the landlord's application. This is not a clarification of the existing law but a blatant undermining of tenants' rights.

Subsection 121(3) of the Landlord and Tenant Act is the section that states that a tenant cannot be evicted for enforcing rights, calling the government agency against the landlord or joining or forming a tenants' association. The simple change from "a reason" to "the reason" means that any tenant who stands up against their landlord and tries to enforce their rights could be putting their family out on the street. While this might not help tenants, it certainly could help the tribunal, because there will be fewer and fewer applications and fewer tenants trying to enforce their rights with other bodies.

Now I'm going to page 15.

Amending applications: The tribunal is given the power to amend the application at any time under the Tenant Protection Act, section 176. Under part IV of the Landlord and Tenant Act, this was not possible. Allowing last-minute amendments is nothing less than trial by ambush and is contrary to the basic principles of natural justice.

Now to page 20. I wish we had more time so we could go through all of this, but I hope people will take the time to read this brief. I'll deal with disputes, at the bottom of the page.

The Tenant Protection Act contemplates different remedies for disputes in different applications, but very little is set out in the actual bill. The Tenant Protection Act requires that a dispute be in writing. Under the Landlord and Tenant Act, a dispute could be either made in writing or by appearing before the return date and time specified in the notice of application. It is unclear why the right to appear and dispute has been removed. It merely places a further roadblock in the way of tenant disputes. The requirement of a written dispute adds a level of formality that negatively impacts on various classes of tenants. I'm referring to those with literacy and linguistic barriers.

Moreover, a landlord or tenant, most often the latter in reality, had until the day before the return date under the Landlord and Tenant Act to dispute. While this could be as little as five days from the receipt of the notice of application if served and filing took place immediately, most often the time for dispute was longer because the probability of getting an early return date was minimal. Under the Tenant Protection Act, the respondent has only five days after service of the notice of hearing to file a written dispute whether or not the actual hearing date is available to be scheduled within that time.

In other summary proceedings, such as Small Claims Court, a defendant has 20 days from service of the claim to file a dispute.

The Chair: Ms Garrett, I regret to tell you you have one minute. I know you have a lot to say, but that's all you've got.

1100

Ms Garrett: Okay. There is no guideline as to how the dispute is to be filed. It most certainly cannot from a practical point of view be filed by mail, yet this is the most accessible form of delivery for most tenants. The reason mail delivery is precluded relates to the fact that mail is deemed to be received on the fifth day after mailing. In order to be received within the five days the dispute allows, it would have to be mailed before the date that the dispute is served on the tenant.

I would like to go on, but I can guarantee you that tomorrow in Ottawa I will educate you about rent control.

The Chair: Thank you for coming. You've obviously prepared a very detailed brief and spent a lot of time on many issues. It is unfortunate we can't hear more from you, but time does not permit that. Unfortunately, there is no time for questions either, but thank you for your time. I know members of the committee will review this brief.

Mr Gerretsen: I hope the government staff will review the brief as well.

Mr Gilchrist: Just can't keep quiet, can you, John? You just have to flap your gums.

PARALEGAL ASSOCIATES (SUDBURY)

The Chair: The next group is Paralegal Associates (Sudbury), Lynda Beavis. Good morning to you.

Ms Lynda Beavis: I apologize to the committee, Mr Tilson. I didn't run off enough copies for everyone, but I can manage that if you want them afterwards.

The Chair: If you can give a copy to the clerk, the clerk will make the copy available to us at a later date.

Ms Beavis: I did, thank you. I'm going to speak to you this morning unabashedly from the point of view of landlords. I think perhaps it's a bit of a cry in the wilderness, from some of the presentations I've heard this morning. However, there are some things in the legislation that need to be addressed, and from the landlord's point of view I'd like to briefly take you through some of them.

This list is not at all extensive. It's a big piece of legislation, and nothing is perfect.

I will start out by saying that it's a progressive piece of legislation, if you'll pardon the pun. I feel it goes a long way to helping remove some of the barriers under the previous Rent Control Act. It doesn't do a lot to address some of the issues that should have been addressed in the Landlord and Tenant Act, but as I said, nothing is perfect and it is making an attempt to streamline the situation.

Just as some background for the members who are here, I own and operate a business called Paralegal Associates (Sudbury), which was established in 1989. In the course of the business, we do landlord and tenant matters and rent control matters, almost exclusively for landlords. Our clientele ranges from a landlord who has a basement unit apartment in his or her home to multi-unit complexes, landlords who have major holdings with many units. From that point of view, I feel I have a fairly extensive knowledge of the range of problems and pitfalls that landlords run into in the course of trying to do their normal business under the Landlord and Tenant Act and the Rent Control Act.

In addition to that, I am also a member of the executive committee of the Sudbury and District Property Owners Association, which is made up of local area property owners for the purpose of getting together to try and help each other through some of the things that have been in our way in the last few years, like the Rent Control Act, and also to exchange ideas and just talk about the normal business of being a landlord.

As I mentioned, it's heartening to see that there are some positive changes in the pending legislation, which consolidates all of the rental housing issues into one act. The changes are long overdue, and I think the bill does attempt to correct several inconsistencies and/or omissions that were in previous pieces of legislation.

In previous appearances before this committee or committees such as this, our position was then, and still is, that the residential tenancy market should be part of the free market system, allowing for peaks and valleys and adjustments to them to naturally occur while at the same time providing assistance in housing for those who truly need it.

When I say "we" — the royal "we" — I'm not going to differentiate my personal comments from those of my business to the ones that I would make as an executive member of the Sudbury and District Property Owners Association, simply because our aims and issues are one and the same, as we work primarily for landlords, and the property association is made up of landlords. So I'm not going to differentiate. Our position has always been that there shouldn't be rent controls at all, that the free market system should persist and that, like any normal business, which being a landlord is, it will settle itself out. When the market's soft, you're not going to have high rents. When the market will bear it, the rents might tighten up. I think there's a very ungrounded fear by some of the tenants' associations and some of the tenants themselves that by

removing the rent controls on units that become vacant, all of a sudden there's going to be a miraculous, horrendously high increase in rents. I can tell you it's simply not so.

In Sudbury currently we have approximately 12,000 rental units. We're running at 8% vacancy. It's just not going to happen. There are chronically depressed rents in Sudbury. There are beautiful two-bedroom units that I would love to live in for \$599 a month inclusive. It's just not market rents regardless of where you go. The few of them that are occupied by tenants who primarily stay there. There isn't a large turnover, with the exception of some of the people who habitually turn over. That's a point that I would like to make to the committee. Someone made it earlier, that there are some good tenants and there are some bad tenants. There are some good landlords; there are some bad landlords. There are some transient people by nature or by necessity. I think it's a small minority of those who catch the media attention and primarily blow it out of proportion.

My sister, by the way, just sent me a facsimile transmission this morning out of the Hamilton Spectator. It says that the rent bill is cruel and unnecessary. It's a flagrant attempt by some media people and some people who are in the business of law, who should know better, to discredit the bill and not give it a fair hearing or attempt to round out what the bill attempts to do. This is having regard to people who move out in the middle of the night, for instance, and their furniture is going to be all of a sudden sold and the tenant who leaves is going to suffer great loss because of it.

In my personal experience, anyone who moves out in the middle of the night doesn't have a big-screen TV they are leaving behind that I would love to have for my own personal use. Normally we have to call Reliable Cleaning Services; sometimes we have to call an exterminator. Quite often on abandoned units these days we have to call in the SPCA people because they leave large dogs or animals behind. These are a minority. They are definitely a minority, and it's unfortunate that that part of it is played up in the press.

I should probably stick to my text. But the vacancy rent increases are not going to happen. It's not going to be a major concern. I can assure you that since the Rent Control Act came in, my business has seen a marked reduction in the numbers of applications that go before the rent control hearings officers for above-guideline increases. I don't think we've had any in almost 18 months now.

The punitive nature of the Rent Control Act, coupled with the 3% cap, was a barrier to most of the landlords, who just decided to forget the whole thing and they would try and limp along, and I do mean limp along, as they had been doing. They're not making any great, horrendous amounts of money. They have aging building stock, quite often 20 years old or more. These buildings need constant repairs, like any home does. Most of the landlords I deal with, a majority of them, are very proud of the buildings they own; most of the tenants I know are very proud of

where they live. Both of them want the place to be as nice as possible, given the economic circumstances that allow the landlord, with restrictions on his or her guideline increases, to put back into the building.

I think it's a welcome relief that the 2% penalty is removed and that the cap, if we have to have a cap, is at least increased to 4%. It may just spur some of the people who have been sitting back and doing nothing with their buildings in the course of major repairs to start doing that.

1110

The maximum rent concept is a glaring omission. I don't think I can emphasize that to you strongly enough. Especially in Sudbury there are major reasons for my saying this, and it's because there are very few apartment units that are at market rent. The majority of the landlords have earned their maximum rent, but they haven't been able to use it because of the economic conditions. However, when they do have to finance or if there is a sale in the wind, the market maximum rent concept is quite often the deciding factor in whether the mortgage is going to be given to them or the sale will go through, simply because the bank can look at the books and say, "This is what could happen, and these are the rents that are available if we wanted to move to them tomorrow," without making an application right now under the Rent Control Act or under the new Tenant Protection Act.

If there is any possibility of your rethinking the provisions of the act, the maximum rent concept is a very valuable one. I think you're going to hear from Zulich Enterprises this afternoon, who are in the business of buying and selling and running units. I know to them it is one of the major factors in looking at the business proposition of rental housing.

I do have some concerns with making the legislation work. I will start off by saying that all the positive changes in the world will not help any legislation unless it's viewed by those who use it to be fair and equitable. There are some things that really do concern me, and the landlords I work with, with respect to the actual working of the legislation.

Currently under the Ontario Court (General Division), when applications are heard and an order is signed by even a registrar, a deputy registrar or a judge, it has some weight. In all fairness to the committee, I know the regulations aren't available yet for public use or for public viewing. If I had an opportunity to read the regulations, I might alter some of the things that I'm about to say; however, without having access to that information, I just have to take it at face value.

It doesn't seem at first blush that the legislation has any teeth. There have been very few alterations to the Landlord and Tenant Act except for ones which will allow, I believe, more abuse of the system. Specifically in the seven-day barrier now, a statute bar, the judge can only take seven days for the delay of a writ of possession, regardless of the reason. Under the new legislation, that seven-day restriction is removed entirely, and in the absence of a definite period of time to postpone an

eviction, we are dealing now with personal biases, with personal beliefs, with whatever is happening that week in the community. Who knows what we're dealing with? I firmly believe that if we're going to make the procedure workable, there have to be some time frames set out in order to make that happen. So I'm asking the committee, if there is any room for revision — and I hope these hearings are allowing that room — that that is one of the sections you'll revisit.

The other one is that there is no payment of rent into the system. Currently if a tenant wants to dispute the rent, the tenant has to pay the rent into court, and after a hearing on the merits, the court will decide whether the landlord gets all of the rent or a portion of it, or, if there is an abatement due to the tenant, the tenant gets the rent back, the point being that the rent is due and payable. Anyone who is in business or anyone who actually goes to work for a living, like we all do — we're all here today getting paid somehow, although I'm not this minute — we expect to get paid for what we do.

The landlord in this instance has provided to the tenant a place to live. Whether or not the tenant likes it or thinks it's good or bad or indifferent, the point is that it's provided, it's a contractual relationship, and where there is a valid dispute the rent has to be paid and the trier of fact should then decide where the money is distributed so neither side has it and it makes the hearing impartial. I know the landlords would like to see that provision reinstated in the new legislation.

There is a new section — correct me if I'm wrong; I think it's section 27, I'm not sure — something about harassment: the landlord cannot harass a tenant. I'm sure the drafters have it right at their fingertips.

The Chair: I believe you're correct.

Ms Beavis: There are other provisions — again, I'm not sure which they are, but they come later on in the bill — that give the landlord the responsibility to give the tenant quiet enjoyment. As for section 27, I feel, and the landlords I know feel, this is a really negative section of the bill. It opens the floodgates to widespread abuse.

In my practice, I have had landlords unjustly charged with criminal offences such as mischief and assault, totally unfounded, but once the charge is laid they have to answer to it, they have to make an appearance in court, they have to be fingerprinted, they have to go through the whole criminal justice system. It's humiliating at the very least, and when it's totally unwarranted it really leaves a long-standing anger and real fear that this could happen again. I feel section 27 is going to lead to more and more of that, and that section should be removed, because there is adequate protection under the other sections in the act, where the landlord has to give the tenants quiet enjoyment. The Criminal Code does adequately protect anyone who feels they are being abused for any reason and it doesn't have any business being in an act such as this.

I'm probably running very short of time.

The Chair: You have about five minutes.

Ms Beavis: Those are some of my concerns, not all of them. Above all, I'm grateful that I had the opportunity to at least address those concerns to you this morning. Rather than take the other five minutes just talking, if there are some questions, I could try to answer them.

Mr Gerretsen: I've been a landlord and I've been a tenant and I agree with you that there are some problems in the Landlord and Tenant Act that really aren't addressed in this act to deal with the so-called bad tenant, and I know that's subject to interpretation. Correct me if I'm wrong, but what we're basically talking about is the landlord's right to make a profit and I've got nothing against that.

Would you not agree with me that interest rates on mortgages — and the mortgage expense is usually one of the biggest expenditures a landlord has — being between 6% and 8% over the last two to three years, compared to 11%, 12%, 13% five or six years ago — that a lot of these mortgages are coming up for renewal right now, have come up over the last couple of years and the landlords are paying much less as far as mortgage expenses are concerns, that the landlords, generally speaking, are doing a heck of a lot better as a result of the lower interest rates than they were three or four years ago?

Ms Beavis: I can't honestly tell you that's the case. One would think it may be, although I do have some experience, to answer your question, with two clients of mine who are so grateful that the interest rates are lower now and they've been able to renegotiate their mortgages, because quite frankly they were subsidizing their buildings before. The rents weren't covering their monthly expenses.

There are a lot of landlords in the Sudbury area who work not just at their buildings — their buildings are a sideline. The lower interest rates now are just letting them break even; they're not making them money. I can honestly tell you I don't know of any landlord here who's rolling in dough being a residential landlord. They're simply not. It has eased the burden. Your point is quite correct there. It eased the burden but has by no means made them financially independent.

Mr Marchese: I appreciate your views, Ms Beavis, but everything I'm reading points to the contrary. A study done by Greg Lampert — a separate study, other than the one the Conservative government commissioned, Steve Pomeroy and Helyar — compared the economics of existing and new rental buildings, and the study found that returns were substantially higher for existing buildings. This doesn't say how much return, obviously, but clearly they're doing okay. Another study showed that the rate of concern is quite high on separate studies, although you'll have Mr Wettlaufer saying, "Oh, that's not true, the rate of return is just 2% or 4%." We think the rate of return is by and large quite high. Some may not be doing as well, but by and large they're doing okay. Is that a fair remark, or are you saying some of these poor landlords really have been suffering over the 30 years?

1120

Ms Beavis: I'm going to say that some of them have struggled; I won't say "suffered." There certainly hasn't been any rush on buying the buildings. When the NDP government brought in the rent controls — at the time Mr Cooke was here as Minister of Housing — we offered Mr Cooke all kinds of beautiful buildings for next to nothing because that's what they were worth under that regime. He declined to take our offer but instead decided that he would put in a whole bunch of co-op housing that no one could compete with, by the way.

In answer to your question, if all the statisticians were lined up end to end across the province, I think that would be a good thing. I don't know what the question on the survey was, I don't know what kind of results they expected by the way the question was worded, who was sampled, how old the survey is. There are too many variables to make a bald statement to say they're doing well by and large.

Certainly my landlords are not declaring bankruptcy but they're not by any stretch of the imagination in a position to dig in their pockets and give you five grand just for the hell of it.

Mr Gilchrist: Thank you for making your presentation here before us today. We appreciate that clearly you've found some criticisms with this bill as well. It's unfortunate that others don't recognize that obviously if every landlord was pleased with the bill or every tenant was pleased with the bill there would not be the necessary balance. You will never have a perfect relationship in any human endeavour but this bill, we believe, strikes a far better balance. Mr Marchese referred to the Lampert report. It's true —

Mr Marchese: It was a different report.

Mr Gilchrist: Sorry, okay. I was going to say that was updated. The most recent report done on housing in this province says yes, existing buildings do better; new buildings lose an average of \$3,800 the first year and it takes seven years for them to break even. That's why nobody in today's property tax regime builds new buildings. I think it's very telling that Mr Cooke did not take up your offer, did not take free accommodation when he could get it, because he recognized that under the current rent control regime, which by the way does not apply to co-ops — he exempted those co-ops. They can increase their rents by any amount they want. But only by making that exemption could he find a way to provide any new housing. We think this bill will stimulate investment. Again, I appreciate your sharing a different perspective on this bill.

The Chair: Thank you for coming.

TIM WELCH AND ASSOCIATES

The Chair: The next presenter is Tim Welch and Associates. Mr Welch, good to see you again.

Mr Tim Welch: Good morning. This is actually my first time appearing before a legislative committee here.

The Chair: You and I have travelled the province, Mr Welch.

Mr Welch: But I have observed many committee hearings on rent legislation over the years.

My name is Tim Welch and I have a company, Tim Welch and Associates. Among other things, I represent tenants at rent control hearings. I also, as background, am a former policy adviser to the aforesaid Mr Cooke as well as Evelyn Gigantes. I hope by saying "Mr Cooke" — he's not viewed as such a bad person by the current government perhaps as Ms Gigantes is. She didn't get an appointment.

Mr Marchese: They might view you objectively now that you've said that.

Mr Welch: I have been observing rent laws for over a decade in terms of the good and the bad in them. No piece of rent legislation is perfect and I'd say even the current law is not perfect. I've heard the parliamentary assistant say the status quo is not working, I've heard the minister say the status quo is not working and there's a need to change. I would certainly suggest the proposed bill is not necessarily the direction I would choose to go, but the government clearly has a majority and there will be a new rent law at some point, probably later on this year. What I would like to try to do is focus on amendments. This is what the purpose of this legislative committee is supposed to be, to focus on amendments and improve the legislation.

One of the things I would say that falls under the rubric of "The status quo is not working under the current law" is the rent control guideline. Unfortunately, that's one of the areas the government has not chosen to change. Right now, we have a guideline of 2.8% this year, and it'll go up to 3% next year. I would say over the past four to five years the rent control guideline has been significantly higher than inflation. We've had inflation of about 1.5% to 2% the last three or four years. When this Rent Control Act was designed in 1991 we had been having inflation in the 4%, 5% and 6% range for many years and I don't think anyone predicted all of a sudden we'd be looking at inflation of 1% to 2% for a number of years to come in the 1990s. This legislation, certainly the way the rent control guideline was designed, did not foresee the dramatic change we would have in inflation in Ontario.

One of the problems with the guideline — I don't know how familiar all of you are with the details of the guideline, but of the 2.8%, the 0.8% is an inflation component, and under the current law, the 2% is for capital expenditures or repairs and maintenance of the building. Under the new law, the 2% figure will stay there, but it's no longer specifically designated.

One of the questions I have is, what really is the purpose of that 2% in the guideline? I would like to try to have a little more dialogue in the committee hearings. I'm more than familiar with the structure of committee hearings and I could go through, and hope to go through, a number of points. But I would be interested, if the

parliamentary assistant or Chair was agreeable, in trying to get some feedback on a point-by-point basis so there can be a little more dialogue rather than my going through a statement and then you responding.

The Chair: If there is unanimous consent, this committee can do almost anything.

Mr Welch: Amazing powers.

The Chair: Absolutely.

Mr Welch: Again, I'm just trying to have it informal and get some feedback along the way on how the government views that 2% and what that 2% is for in the guideline under the new legislation.

Interjections.

The Chair: Excuse me.

Mr Welch: Sorry. Jumped the gun.

The Chair: We are varying from the usual process. Do committee members have any problem with this process?

Mr Marchese: Mr Gilchrist should respond.

Mr Gerretsen: I have no problems at all.

The Chair: Fine. Does everybody agree? Mr Gilchrist.

Mr Gilchrist: Precisely the same. The expectation would be that it would be spent on all of those: capital improvements, routine maintenance and the other components. Obviously, as buildings depreciate, there is a need to make allowances for that. I think there is no need particularly to allocate point by point, because again covered in subsection 24(1) is the expectation that the landlord must maintain his premise in a safe and secure manner, if that means fixing windows or doors or it means doing other improvements. Again, I don't think tying it to a specific capital project or a specific cost —

Mr Welch: Not to a specific capital project. I guess one of my questions is, why has it changed then? Under the current law, the 2% is for that. If landlords come in for an above-guideline application, they have to account for that 2%, but under Bill 96 they no longer will have to account for that 2%. Instead of starting from just the inflation component and having to say how they spent that 2% this year on capital expenditures, landlords will no longer have to account for that at all. They will start at 2.8% and then will have to account for expenditures above that. So it is somewhat of a free gift, and that is a change from the legislation. When a landlord comes in for an above-guideline application, I don't know why there shouldn't be at least some accountability for that portion of the guideline.

Mr Gilchrist: You've recounted it accurately. I guess I would respond in two directions. First off, I'm sure you would agree with me that while the government anticipated when your bill was passed that there would be that 2% allocated towards capital improvements, because that was the best guesstimate of the amount of money that would be needed to maintain buildings, there never was any kind of correlation; there was never any follow-up with landlords to ensure that those dollars were spent. I think, on the one side, it would be inappropriate to suggest that somehow the 2%, up to the guideline right now — that anything changes. If landlords are doing what they

should do, which is maintaining the building at a fine standard, and they were spending the dollars before, they're still going to spend the dollars.

As to the improvements over and above that, there's no doubt. We have recognized there are extraordinary increases that traditionally — at least traditionally in the sense of since the current bill was passed — have not been allowed to be passed through. Quite frankly, we see that that has stopped a lot of necessary health and safety renovations in buildings across this province, and no tenant profits from that. So yes, a different approach to it. I accept that, Mr Welch, no ifs, ands, or buts. But the bottom line is, again, we understand that this is a different approach, but we believe that the status quo is what has left us with the buildings that tenants are coming and complaining to us about today. You can't have it both ways. We believe this will stimulate the renovation market, will stimulate new construction.

1130

Mr Welch: Can I make another suggestion for amendment?

Mr Gilchrist: Certainly.

Mr Welch: At meetings I've been in with tenants, in a variety of capacities over the last three or four years, they want to know: "How come the guideline is so high? My income has been frozen, inflation is only 1% and 2%. How come the guideline is 3%?" Even in 1993 you had inflation of 1% and a guideline of 4.9%, a very huge and visible gap, and there still will continue to be, as long as we continue to have this low inflation, a significant gap each year, and it compounds.

One proposal is to amend the guideline formula to have it straight inflation, because then I think it's understandable to people. People know generally what inflation is, and you can use the CPI as a benchmark for that, but people don't understand the guideline. Whether it's most tenants or many small landlords, they don't know where that comes from. Once you start trying to get into explaining about this 2%, (a) it gets very confusing, but (b) there's no clear relationship on that.

Another option for amending, if you do want to make sure to encourage more renovation and repair work, is that instead of the 2% which is unaccounted for, if you had a 1% component — because right now you've got the guideline of 2.8 plus four under your proposal. If you took 1% out of that given part of the 2%, but then allocated it over to those landlords who actually do have legitimate repairs to undertake so that you still have the same net amount of, say, 7% in 1998, then tenants may not be that thrilled with the end number, but at least they get some sort of accountability of where their money has gone, as opposed to the 2% and there's no accountability. I would make that suggestion.

You want to try to make legislation understandable, and it's always a struggle at any point, but accountability to tenants — no one's thrilled with paying rent increases, fair enough, but they at least want to see something come out of that. That's why I would make a suggestion to try to

amend the guideline formula to make it clearer and at least be able to explain what that money is for in the guideline. I'll leave that suggestion.

Mr Gilchrist: I appreciate your suggestion. Just as an aside, these are the proposed amendments — I'm sure you know the process better than most in this room — based on the submissions that have been made by tenants. Most of those are tenants. That's the landlord section; that's the tenant section. It has been taken to the minister and on to cabinet. I will forward your suggestion as well.

Mr Welch: Another point I'd like to pick up on that you made a couple of days ago in committee hearings is on the question of property taxes. I know you've raised that issue a number of times in a number of ways. I'd say, yes, the current legislation is unfair when there is a decrease in property taxes. Even under the existing legislation, if there is a reassessment by the Assessment Review Board, and a downward reassessment, and there were a number of buildings in Metro Toronto over a number of years —

Mr Gilchrist: Done.

Mr Welch: I'll be happy to hear they're done. There are two points. On the suggestion you've made, which is the first time I had heard that in committee, that if a municipality does an across-the-board change to property taxes, tenants will be automatically informed, it's my understanding that's not currently in the legislation.

Mr Gilchrist: That's correct. That's one of the proposals.

Mr Welch: I think tenants will be very pleased to hear that.

Mr Gilchrist: I think it will be the first time they've ever even known.

Mr Welch: To echo the comments made by the first presenter and others, I think a lot of tenants will not be holding their breath for municipalities to do across-the-board reductions. It's only an optional thing, and I think currently with a lot of the downloading discussions, not to get too much into that, I don't know how many municipalities will be running out, given the various fiscal pressures they're going to be facing in the next couple of years.

But something that is happening in some buildings — it's not across the board — is that when there is a decision by the Assessment Review Board, tenants who live there aren't informed. They don't know the property taxes have gone down. Although this current legislation and Bill 96 both say you can apply for rent reduction if there's a property tax decrease, no one tells them. How do they know to apply?

What I would suggest as a further amendment, building upon what you've stated about when it's a municipal across-the-board reduction, is that if there is a decision by the Assessment Review Board where there is a property tax decrease, I would recommend to have an automatic notice to the tenants of the building by the Assessment Review Board that this decision has come out. You can give theoretical rights about a rent reduction, but if no one's telling the tenants something has happened, they

obviously can't enforce their rights. I don't know if you're nodding that that's something you're looking at as well.

Mr Gilchrist: It may not make you a convert, Mr Welch, but on that matter we agree as well.

Ms Shelley Martel (Sudbury East): On a point of order, Mr Chair — sorry, Mr Welch — this is the second time the parliamentary assistant has intimated to the committee that this has been done. I'm assuming he's got a package of amendments. I don't know whether or not these have been tabled with the committee, including the opposition members, but it sure would make our lives a little bit easier to know the changes the government has already decided to make, and would probably help any number of presenters, including Mr Welch.

Mr Gilchrist: I'm sure Ms Martel is the last person who needs to be informed that when things get sent to cabinet they're not official till cabinet has approved them.

Ms Martel: You've got them in your hand.

Mr Gilchrist: But I have no reason to believe —

The Chair: Mr Welch, perhaps you could continue.

Mr Gilchrist: — that at that point they won't adopt what the minister and we have already suggested, or I wouldn't make the assertion today.

Interjection.

The Chair: Ms Martel, let's let the presenter continue.

Mr Welch: I don't want to get into any political discussions.

The Chair: There are all kinds of firsts here this morning, Mr Welch.

Mr Welch: Another issue I'd like to talk about is where I think the status quo or the current legislation does not work well, and that's the question of parking, which in a lot of buildings can be a real minefield, but I think there's never been a great explanation to give to tenants who say: "I don't own a car. I don't need a parking space. Why am I required to pay for parking?" There is no good answer to that. It's an unfair part of the current legislation, and it's certainly been in all the rent legislation over the years, so I guess I was hopeful, as others were hopeful, that if —

Mr Gilchrist: Mr Welch, can you help us, and I say this most sincerely, why is it still there today? Because I agree with you. We wrestle with why those sections survived your bill and the previous one.

Mr Welch: And previous and so on and so on, yes.

Mr Gilchrist: At some point they take on a life of their own, but I'm curious to know —

Mr Welch: They're just part of the law and they're handed down. That part of it is sort of the historical decision when buildings were built over the last number of decades about whether to have parking included in the original construction costs. You may have had an apartment in 1972 rent for \$200 plus \$10 parking, and in the apartment building next door it rented for \$210 and that included parking. So there are many things in the rent legislation which are just historical and are perpetuated. Not necessarily has there been a full analysis each time the law has been revised; some just continue.

I can sometimes appreciate the landlord's perspective on that, but there have been suggestions made in other presentations of a proper legal notice. If someone owns a car — it will vary in cities obviously. In Metro Toronto you have a lot fewer tenants owning cars than you would in Sudbury or other cities, but if you are not using that service you have to pay for, that defies logic.

Mr Gilchrist: Was part of the consideration that accountability might be difficult to arrive at in both directions? Someone could say, "I don't swim and I don't use the swimming pool." So if you exempt —

Mr Welch: But they don't have to pay a swimming charge.

Mr Gilchrist: Except they would argue the other side of that historical model you talked about, that it was built in, so one building adopted an all-in-one package and another segmented their charges, maybe not singled out swimming pools obviously, but once they had segmented out a charge, then it would seem to me they open themselves up to an accusation that it really is a common cost in the sense that when you plow a parking lot, you plow all the spaces. You don't say, "Okay, I'm only going to do odd numbered spaces" sort of thing. So there is a cost that's borne by the landlord that normally, if it was elevator maintenance, painting or something is divided by the total number of units you'd have in the building.

Mr Welch: But I think for a lot of the buildings where it is in dispute, that parking space can be rented out by others, whether it's people having a second car, or in any more central neighbourhoods it could be rented —

Mr Gilchrist: Would you arrive at the same conclusion if you allowed subletting?

The Chair: I draw to Mr Welch's and Mr Gilchrist's attention that this dialogue will end in two minutes.

Mr Welch: Do I regain any of that time?

The Chair: It's over in two minutes, Mr Welch.

Mr Welch: Okay. I would make that suggestion. Another point I do want to touch on very briefly, and again we could have a long discussion on a lot of issues, is the question of utilities. Under the current law, if utilities go up, a landlord can apply for a rent increase, and under the current law if utilities go down, tenants can apply for a rent decrease. That struck me as extremely fair and balanced and that balance is being taken away. Tenants will no longer be able to apply for a rent decrease based on utility costs going down. I have one client I represented with the exact situation: The landlord's heating costs went up. It was a colder than average winter. The landlord got a rent increase. The tenants weren't thrilled, but they could see the logic there. The next year heating costs went back down to average. The tenants applied for a decrease. They got that, not as much as their rent went up but they got a decrease. Now they're being told, no, that's unfair.

1140

I would very strongly suggest that either (a) you could keep the status quo, which I know is something you don't want to do, or (b), if you want to change, to eliminate that altogether, to have neither landlords apply when utilities

go up nor tenants apply when utilities go down. That's a balance. That will keep cases out of the tribunal — I assume you're always looking for administrative cost savings — and can at least be explained, because for utility costs going up you have the inflation component of the guideline.

I strongly suggest either get those out of the application system altogether and save yourself some money, or if you're going to keep having utilities in the system, at least make it balanced, because I know the only explanation ever given said, "If landlords want to do energy retrofit, if you don't have it going up, that even more strongly encourages them to do those energy retrofits because they will save the money."

Mr Gilchrist: I will give you an undertaking to take that back; that is an excellent suggestion.

Mr Welch: On the OPRIs, they do work in the vast majority of situations. It seems blatantly unfair if maintenance is not being done. It has been recognized by the municipalities and the front-line workers, the property standards officers, that this does work. Again, it keeps things out of the tribunal system, because if there are no OPRIs, there will be a lot more rent reduction applications by tenants. It keeps things out of the courts. Your proposal is to take maintenance, outstanding work orders from municipalities, back to the court system, and I thought part of the objective of Bill 96 was to get more cases out of the court system.

It works against a lot of the principles this legislation is supposed to espouse. It hasn't solved every single maintenance problem in the province, but it's very practical, it's efficient, it's quick, and in a vast majority of cases it works. I can't see any reason for removing it if you're going to be serious about maintenance.

The Chair: Mr Welch, unfortunately, your time has —

Mr Marchese: Steve —

The Chair: Mr Marchese, be a good boy. Unfortunately, your time has expired, Mr Welch. I think whether many of us agree or disagree with you politically, we all respect the knowledge you have and the many years of experience you have, and we thank you for coming and sharing those thoughts with us.

SANDYCOVE ACRES HOME OWNERS' ASSOCIATION

The Chair: The final presenter this morning is the Sandycove Acres Home Owners' Association, Paul Burkholder. Good morning. Oh, there are two people.

Mr Paul Burkholder: There are two of us, Mr Chairman, and we appreciate the opportunity to make a presentation to yourself and the committee. My name is Paul Burkholder and with me is my associate Dorothy Lea. It takes two of us in case there are some sophisticated questions we must deal with.

I'll be working from a brief which we had prepared, and I believe copies have been distributed.

First of all, I want to talk for three or four minutes about general background. Dorothy and I represent a fairly narrow segment of the population with very specific interests, and in order to deal with the specific suggestions and the specific concerns we'll be raising later, it's in our view critical that members of the committee understand our community and the nature of it. I don't think there are any communities of this type in the Sudbury area. We're from down just south of Barrie and appear here this morning simply because other hearing calendars were overloaded.

We represent about 2,000 mostly senior residents and home owners in the Sandycove Acres Land Lease Community, just south of Barrie, in the town of Innisfil.

This is a planned lifestyle community of 1,185 modular or site-built, owner-occupied homes located on sites leased from the landowner-developer, along with landowner-owned and -maintained common-use property and recreation facilities. The residents organize and operate a wide variety of social and recreational activities.

Lease rental payments, although the mechanics have become muddled through the application of rent controls over the last number of years, cover basic land rent, common area property taxes and the maintenance and operating costs of the services and facilities provided. The homes and related sites are individually assessed, with municipal taxes paid by the homeowner through the landowner as a rent add-on.

Initially developed in 1972, this is the largest and longest established land-lease community for the retired or near-retired market. Some of our resident homeowners have been here 25 years, although, as might be expected, there is perhaps an 8% to 10% turnover each year. The inverse of that, of course, is that typically a tenancy in one of these land-lease communities is much more lengthy than in typical rental housing. Ten, 12 or 15 years is not at all unusual.

Most residents are quite happy with the lifestyle they themselves have evolved, although again, as one would expect, there are differences of opinion with the landowner about operations and administrative matters. There are real concerns, particularly with those on non-indexed incomes, that the cost creep-up over the years threatens their ability to stay on.

As a supplementary comment at that point, we have real concerns about the lease wording details. These are 20-year leases that each of us has entered into for the site. There have now been nine versions of that lease over the years that have become progressively more advantageous to the landowner, who seems unwilling even to consider more balanced arrangements. As things stand, we have absolutely no leverage to push the landowner into balancing the lease in any way. Since there is no alternative location for our homes, we cannot simply up and move somewhere else. There is no competitive land-lease community we can move to, so we're a captive audience.

Under rent controls, the legal maximum rents have increased 45% in the last 10 years. That's just as a matter of interest.

Our community is seen by municipal officials as clearly an economic and social asset, with a combination of minimal service demands and a high level of local community involvement. This type of housing clearly meets an increasing housing need in a practical way.

Again a further comment on that point: We think this is a very desirable type of housing for that specific segment of society. Demand is bound to increase in the years ahead due to the demographics. Shortly, the first wave of the baby-boomers will be prospects for this kind of community residence.

For some years, we and the Ontario Owned-Home Leased-Lot Federation have been pressing for specific legislation to recognize and provide appropriate controls over this specific housing category. The introduction about three years ago of land-lease communities was in our view a big step towards this goal, and we hope further steps will follow. Bill 96 unfortunately does not include progress on this particular objective.

Our comments on the draft Bill 96 are limited to those aspects that we feel have a direct impact on our land-lease community, noting only that there are a number of provisions that we would have liked to have included beyond those enumerated below.

Since our further comments are so dependent on members of the committee having a picture of our community — I would have liked to have gone multimedia with the background — perhaps we could stop for just a moment to see if there are any questions related to that background information that committee members would like to have responded to.

1150

The Chair: Sir, you have 20 minutes, roughly 10 minutes left. Normally we go in rotation with each caucus. If you wish each caucus to ask questions now, we can do that, but that may prejudice —

Mr Burkholder: Perhaps the mechanics would jeopardize my objective.

The Chair: Yes. I'd suggest that you complete your report.

Mr Burkholder: Into specifics then, Mr Chairman. We endorse and support the provisions of part V, mobile home parks and land-lease communities, noting that for the most part these are carry-forward provisions from current legislation.

We do not see sections 99 or 102 having impact in our community, but of course have no objection to them. Section 103(f) will be helpful, and we are pleased to see it in the bill.

Section 107, in our view, is a critically important provision. We had noted a need for this exclusion in our comments concerning the discussion paper. Section 107, of course, is the new tenant rent level provision, and we're delighted that it shows up in the bill.

Specifics related to part VI, which is the rent control part: This part of the bill is to a large extent a carry-forward from the Rent Control Act, 1992. As such, our comments are really related to those areas we see as inappropriate for land-lease communities in that act and for which we believe alternative control procedures should apply.

First, subsection 121(2), paragraphs 1 and 2: This is the guideline increase that was just raised with the last presenter. This portion of the guideline, set at 0.8% for recent years, is a calculated index established under the 1992 act to reflect increases in a long list of building cost items detailed in the associated regulations, which presumably will be carried forward to the new regulations. It is a building operating cost index, over half of which is municipal taxes and heating. In our land-lease community, these specific costs, that is, municipal taxes and heating, are borne directly by the tenant homeowner, except for minor heating of common-use recreation facilities. While the landowner does cover other common area operating costs not found in apartment buildings, the related year-to-year cost increases for these should have little impact. We thus believe that this index overstates the real cost increases in our land-lease community. We note also that while the amounts involved may not be great, the way the guideline operates, the related increases are cumulative and compounded, having a significant effect over a long-term tenancy, which is typical in a land-lease community.

Paragraph 121(2)3, which of course is the general guideline increase: In the current Rent Control Act, 1992, this component of the guideline increase is specifically dedicated, and I quote from paragraph 12(1)3 of the current act: "The part of the guideline allocated to capital expenditures is equal to 2.2%." While this dedication has not been carried forward to the draft bill, we assume the rationale continues.

Again, the situation in land-lease communities is quite different from that for conventional rental accommodation. In our situation, there are of course capital repair costs incurred, but according to our landowner's expense reports, actual capital repair costs were not much more than half of the income stream this 2% provided from 1992 to 1997. Through other channels we are currently pursuing the possibility of having this income stream accounted for as a capital reserve. If so, since 1992 it would show about a \$350,000 balance.

Third and finally, aside from other changes — I'm dealing now with sections 128 and 129, which is extraordinary above-guideline increases — we note that in 128(8) and 129, a 4% cap is established. Generally, we concur with these provisions as an improvement, but note again that the overall arrangement is really not appropriate for, and operates to the detriment of, long-term tenancies typical of land-lease communities. The Rent Control Act, 1992, regulations provide that such increases be calculated on the expected life of the assets involved, with no provision to delete the amounts when the expense involved has been fully recovered.

To be at all fair, we believe such increases should be handled as a rent supplement, to be deleted when the expense has been amortized and thus not folded into normal rents where they become compounded year over year.

We note also that in normal business accounting, capital repair costs are primarily financed by depreciation reserves, but in our land-lease community, depreciation expense has been a part of normal total rent since the beginning of the rent control processes, as have all common area and facilities operating and maintenance expenses.

As a brief summary, Mr Chairman, our view is that our land-lease community has proven to be a valid and viable housing alternative for the increasing segment of the population for which it was designed. There are, however, points of conflict between the objectives of the landowner/developer and those of the residents/homeowners. We see these requiring careful legislative control.

As drafted, Bill 96 speaks to some of the specifics but falls far short of resolving a variety of other problems, some of which are carried forward from current legislation and some of which have never been addressed legislatively.

In general, we support and endorse this draft legislation except where it carries forward components of the Rent Control Act, 1992, that we deem inappropriate for land-lease communities. These are the 0.8% rent guideline increase, the 2% capital repair cost guideline increase and the absence of sunset provisions for above-guideline capital cost increases. Our detailed comments concerning these are in the prior section.

Thank you, Mr Chairman. There still is just a very brief period, I believe.

The Chair: We have time for one question. Do any members of the committee have a question?

Mr Gerretsen: Just like Jeopardy.

The Chair: It is indeed.

Mr Wettlaufer: Thank you, Mr Burkholder and Ms Lea, for showing up today. You mentioned in your report, "Through other channels we are currently pursuing the possibility of a capital reserve." What other channels might you be talking about?

Mr Burkholder: We'd be going the legal, professional accounting, court action route.

Mr Wettlaufer: You realize that at present the federal income tax laws do not allow a capital reserve to be set up?

Mr Burkholder: I wasn't aware of that. We have a query out to a very high-priced accountant, and if that's the case, I'm sure he'll be letting us know.

Mr Wettlaufer: It is the case.

The Chair: He's got a daughter who's an accountant.

Mr Wettlaufer: You don't want to pay for that advice.

Mr Burkholder: I shouldn't pay much, in other words. Thank you, sir.

The Chair: Thank you, sir, for coming and making your presentation to us.

That concludes the presentations this morning, ladies and gentlemen. This committee will resume at 1:30 pm. The meeting is recessed until that time.

The committee recessed from 1201 to 1330.

SOCIAL PLANNING COUNCIL OF THE SUDBURY REGION COMMUNITY ALLIANCE ON SOCIAL ISSUES

The Chair: The first delegation this afternoon is Annette Reszczynski, who is with the Social Planning Council of the Sudbury Region, and the Community Alliance on Social Issues. Good afternoon, Ms Reszczynski.

Ms Annette Reszczynski: Good afternoon. I won't be providing you with my written submission at this time, that'll be coming later; however, I have provided you with the list of the body of organizations I represent today.

The Chair: Yes, we have that.

Ms Reszczynski: As you said, Mr Chair, I'm here on behalf of the Social Planning Council of the Sudbury Region. I'm the community development coordinator for the social planning council. I'm also here representing the Community Alliance on Social Issues, which is an alliance comprised of over 90 social services agencies, churches, government representatives and businesses.

Thank you for the opportunity to present our concerns regarding the proposed Tenant Protection Act. The primary aim of my presentation is to illustrate what we believe will be some of the consequences of implementing section 200 of Bill 96 and how this will impact populations represented by CASI, which is the acronym for the Community Alliance on Social Issues, and the Sudbury region as a whole.

Before I speak directly to this, however, I would like to take some time to first talk about how low-income Ontarians have been doing both provincially and locally since they received the 21.6% cut to their income 21 months ago.

The social planning council works in the areas of research, community development, public education and advocacy. In response to the provincial government's decision to cut social assistance in funding social services, the social planning council put out a call to the community asking concerned individuals and organizations to come together to try and find ways to collectively deal with the present crisis that recipients and agencies were facing. The response was overwhelming and out of this grew the Community Alliance on Social Issues.

By working collectively and pooling resources over the last 21 months, CASI has been able to accomplish a lot. New partnerships between the social, faith and business sectors have been established and resulted in a number of new initiatives, including the establishment of a youth resource centre and a volunteer recruitment centre, both situated in Sudbury's downtown mall. As well, a

community emergency fund completely supported through private donations has been established to assist people who have nowhere else to turn for emergency financial assistance.

An interfaith alliance that works to assist social service agencies meet the needs of their clients and an emergency help line and community resource directory are also in existence now due to the collective efforts of this alliance. However, despite our best efforts, we are painfully aware that the difficult economic times we are facing in Ontario are continuing to have an especially devastating effect on traditionally marginalized and disadvantaged groups.

With governments at all levels reducing their role in service delivery and local unemployment rates hovering around 10% for adults and 26% for youth, many people are having a hard time coping and are reaching out for help just as traditional service providers are less able to offer assistance. Those who have been most significantly affected by the cuts include women and children, especially single mothers, native people, seniors, people with disabilities and the working poor.

According to the Ontario Social Safety Network's report entitled Ontario's Welfare Rate Cuts: An Anniversary Report, what was already a serious housing problem before the cuts had become a housing crisis. Before the cuts many people were spending more than their maximum shelter allowances on rent and the amount of affordable housing had already been decreasing for years.

At present, if you are a single person on general welfare, your maximum shelter allowance is \$325, and that includes utilities. Unfortunately, the average rent in the cheapest part of town here in Sudbury for a bachelor apartment is about \$355. In fact, in all but a few Ontario municipalities average rents for apartments of all sizes are far higher than the shelter maximums provided in welfare allowances.

One could argue, as has the provincial government, that people can double up or move to smaller and cheaper accommodation, and many have, despite the fact that this solution, and I put that in parentheses, is causing additional problems related to overcrowding, ultimately affecting people's ability to leave the system.

Food bank use has also increased since the fall of 1995 as more people are having to spend their food money to pay their rent. Food banks have reported large increases since the cuts, but even they cannot be used as a true indicator of hunger in Ontario since their services have not been able to expand to meet the increased demand. It was reported in the anniversary report that in one training program for welfare recipients, half the participants had to leave classes during the month to get to a local food bank during its operating hours.

The numbers of children relying on food banks for basic subsistence have dramatically increased as well. In 1996, 71,000 children living in families in the greater Toronto area needed food bank assistance, an increase of 65% over the year before. Almost two thirds of parents go

hungry regularly to shield their kids from hunger, while over a quarter of all children in families receiving social assistance in the GTA who use food banks go hungry regularly.

Furthermore, to secure and maintain their housing people are relinquishing things like telephone services and their furniture. The Toronto Daily Bread Food Bank reports that 30% of food bank household users in the Metro area do not have a telephone, double the percentage before the cuts. Some people have had to choose between keeping phone services for emergencies and giving up hydro or another utility. However, the relieving effect this produces is only temporary at best and leaves the person with a reduced ability to actually get off the system and end their poverty.

Most poor people juggle bills frantically trying to pay off the most pressing this month and leaving another for next month's crisis. However, more and more companies are disconnecting utilities for late payments. They demand not only the arrears but a substantial deposit, usually hundreds of dollars, in reconnection charges to restore services. These are far out of reach for welfare recipients. Some welfare offices will cover part of a deposit, but almost all have a policy that they will only help once. Furthermore, if you are a youth you are not eligible for this type of assistance, nor are you eligible for a letter of guarantee for last month's rent.

Even more frightening are the findings of a survey commissioned by the Ministry of Community and Social Services conducted by Levy-Coughlin Partnership in October 1996, which found that 38% of the people surveyed had dropped off the welfare rolls since the rate cuts because they had reconciled with their spouse. This may seem like good news until one considers what other sources have found. For example, in a survey of clients from October 1995 to April 1996, the London Battered Women's Advocacy Centre found that the number of clients living with or returning to live with an abuser rose from 21% to 33%. Of those who decided to continue living with an abuser, almost 42% cited the social assistance cuts as the reason.

The implications of these findings are very troubling when one takes into account what we already know about the long-term effects on children who grow up in abusive homes. This, coupled with the loss of counselling services for batterers, has compounded the overall problem. The message here is simple: The most vulnerable people in our communities, and I want to add that we are all vulnerable at different times in our lives, have been stripped of what little they had and are absolutely unable to withstand another siege, especially one that will target as basic a need as the roof over our heads.

In the north we have known for some time that the population of the regional municipality of Sudbury compares unfavourably with our provincial counterparts according to every indicator used to establish status of health. Even prior to government cutbacks, studies clearly show a more vulnerable population in terms of all

determinants of health, including level of education, unemployment, poverty and substance abuse. For example, compared to provincial rates, Sudburians are more likely to have less education, to be unemployed, to live in poverty, to smoke, to drink alcohol or use illicit drugs and to commit suicide.

In our region, young people constitute an especially high-risk population. Many live in poverty. In 1992, 21.4% of children under 18 years of age in Sudbury lived in poverty. Northern youth are also more likely to smoke, to suffer from sexually transmitted diseases and to have birth rates that are higher than provincial averages. Sudbury also has a substantial native population of approximately 10,000 and aboriginal people are among the most economically and socially disadvantaged groups in society. They also have a much higher suicide rate than white youth and they are also more likely to drop out of school with their completion rate for secondary school being one fourth the national average.

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In a report entitled *Toward a Healthier Community*, recently released by the Manitoulin and Sudbury District Health Council, the Premier's Council on Health Strategy's vision for Ontario stated that adequate housing, along with adequate food and education, contributed directly to good health. Nowhere in this thorough report does it recommend that the provincial government make it legal for landlords to exclude the most vulnerable tenants from the most affordable units on the market by amending the Human Rights Code or to eliminate rent control.

Many of the social service providers I represent believe this bill will cause irreparable hardship for generations of Ontarians to come, particularly in the north where communities are already at a social and economic disadvantage compared to their southern counterparts. The possibility of unfair evictions, dramatic increases in rents, poor repair and maintenance of current housing, loss of affordable housing to condominiums, and ultimately an increase in the number of homeless are cause for alarm.

For the majority of organizations I represent, perhaps the most disturbing proposed change is contained in section 200. If passed unamended, it will allow landlords to legally deny accommodation to applicants based on their income. Since the shelter allowance component of social assistance payments makes up from 35% to 65% of the total benefit, what this means is that a 30% rent-to-income ratio would disqualify all persons in receipt of public assistance, 92% of unattached women under the age of 20, 86% of young mothers under 20, 77% of couples under 20, 51% of single mothers and 50% of single women.

My question is: Where will low-income people live? At present, according to the Sudbury Housing Authority, the waiting list for subsidized housing has 1,028 people on it with the average wait for an available apartment being anywhere between one and two years.

If people stay in their present accommodations, it is true that they will not be faced with an increase in their

rent. However, if they have to move, which 25% of all tenants do each year, they will be faced with a new landlord who can not only charge as much as he or she wants for rent, but can also deny occupancy based on income level, even if the potential tenant is willing to pay the amount asked for and can prove they have a good credit rating and rental history.

While the average private apartment vacancy rate in Sudbury is presently hovering around 7%, and thus is serving to keep rental rates from climbing, the Canada Mortgage and Housing Corp predicts that the market will remain oversupplied for only the next year or so. Four years ago a locally struck task force on emergency shelter recognized there were many population groups in the Sudbury region whose emergency shelter needs were not being met. That was four years ago. If we couldn't absorb the people who needed emergency shelter then, and still can't now, how will we manage when the need grows, and we believe it will.

According to the executive director at Sudbury's Action Centre for Youth, this will affect almost all the clients they serve, making it virtually impossible to help young people find a place to live, let alone a safe, clean and affordable place to live. As I mentioned earlier, youth are already disadvantaged when trying to find housing as they are discriminated against by landlords because of their age. If they are on social assistance, they are doubly discriminated against. With no job, limited education and nowhere to live, many young people who are unable to live at home, often because of abusive home environments, suddenly find themselves living on the streets, or if they are very lucky, in overcrowded shelters. Is this the future fate of all low-income people in Ontario?

According to the housing coordinator at the Canadian Mental Health Association, the right to request income information will also detrimentally affect psychiatric survivors. Like youth, people who are mentally ill face many barriers when trying to secure housing. Not only is there the stigmatization that goes along with having a mental illness, but the need for subsidized housing is great as many survivors are on disability pensions. People with mental illnesses are particularly vulnerable to stressful housing situations which often go hand in hand with cheap rental accommodation, making them more likely to become homeless and/or require hospitalization, costing taxpayers roughly \$380 a day.

How can a government that has encouraged welfare recipients to move to other cities to find employment and/or more affordable housing at the same time be proposing to severely limit the access of social assistance recipients to the most affordable apartments? The amendment to the code proposed in 200 would make the lack of choice in housing for households on social assistance dramatically worse.

It is therefore the recommendation of the social planning council and the Community Alliance on Social Issues that income information be deleted from sections 36 and 200 of Bill 96 to avoid opening the floodgates of

discrimination against low-income tenants, causing what we believe will be tragic results for a community already burdened and a population already struggling under enormous pressure.

Mr Marchese: Thank you, Ms Reszczynski, for your presentation. It's important to get the other side, because I believe the government forgets this in its construction of this bill. This affects one special interest group in particular, and that's the wealthy — and the landlords are the most wealthy — at the expense of the tenants.

You ask a good question: Where will low-income people live in the future when the need becomes greater if they've cancelled housing projects at the moment? The private sector is telling us they can't build. They on the other side say, "Oh no, our bill will make it possible and things will be different." But we have no assurances from any developer that we're going to get housing for low-income people or even housing for moderate-income people. That is a problem you've raised that I share with you. I'm not sure what the government has to offer us other than simply saying, "We're just going to do it, and go home and feel better." That's a question I hope they will address.

Section 200 gives me no assurances, as they argue, that it gives greater protection to the people you are worried about. What I argue is that they have given them the tools, through section 200, to discriminate, but they say, "Oh, but they can't." So they're given the tools to discriminate by using income information, then they argue, "But the same section says they can't do it." I don't know if you feel good about that, but I certainly don't.

Ms Reszczynski: No, I don't feel good about it at all. It's going to make a situation where people are already discriminated against that much easier. To me, it seems very obvious.

Mr Carl DeFaria (Mississauga East): Ms Reszczynski, have you had the opportunity of reading section 200?

Ms Reszczynski: Of what?

Mr DeFaria: Have you had the opportunity of reviewing section 200? That's the section that deals with income information.

Ms Reszczynski: Yes, I have read it.

Mr DeFaria: All right. If you notice, section 200 has two parts to it. The first part deals with allowing the landlord to get information about income and that part says to obtain it only if a landlord uses the information in a manner prescribed under this act. Then the second part goes on to say that another section of the Human Rights Code is amended "prescribing the manner in which income information...may be used by a landlord in selecting prospective tenants without infringing section 2" of the Human Rights Code.

Actually, what this section does is protect tenants by indicating exactly how a landlord can use the information about income in selection of tenants.

Ms Reszczynski: That's not how I see it. That's not how I understand it.

Mr DeFaria: But that's what the act reads and we have to go by the wording of the section; we can't go just on innuendo and general interpretation. When a section clearly provides that the landlord cannot use that information in a manner that violates the Human Rights Code, we can't go on and say, as some members of the opposition have been saying —

Ms Reszczynski: Perhaps, sir, you could explain to me how it is that today if the law says you can't discriminate on the basis of income information —

Mr Gilchrist: It doesn't say that. It is legal today.

Ms Reszczynski: No, it's —

Mr Gilchrist: Yes, it is legal today.

Ms Reszczynski: You can ask for information, that's right. You can ask for credit checks, you can ask for income information, but you can't discriminate on the basis of what that information is in terms of how much you'd be paying for your rent. You can't do that now, but that's already happening.

Mr DeFaria: That's exactly what this section is designed to prevent.

The Chair: Mr DeFaria, it is now Mr Gerretsen's turn.

Mr Marchese: They want to discriminate so that this issue —

The Chair: Everybody's talking. You can't do that. Mr Gerretsen.

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Mr Gerretsen: It's kind of inverse logic that I think is being used, because once the landlord has the information, how the rest of the world is going to determine whether he or she is going to use it against the Ontario Human Rights Code is nonsensical, for my part. It doesn't make any sense at all. Once the information is there, how do we know how the landlords are going to use it?

One of the comments I've heard over and over again from people who are in favour of this section 200 is, "Landlords pretty well know the kind of economic or social background of the tenant anyway because they will know whether they're on welfare or mother's allowance or this, that or the other thing." How would you deal with that? It's probably true in a lot of cases that a landlord will somehow get that information as to their source of income.

Ms Reszczynski: I can respond to that very easily. That information is irrelevant. We know that people who are on assistance are not any more likely to default on paying their rent than people who have jobs as lawyers or bank tellers. That's irrelevant. That's the kind of discrimination we're talking about. You can't judge somebody on the basis of how they look when they apply for an apartment. It's not right.

Mr Gerretsen: I agree.

The Chair: Thank you for coming and giving us your presentation this afternoon.

HOUSING RESOURCE CENTRE

The Chair: The second presentation this afternoon is Guy Demarais of the Housing Resource Centre. Good afternoon, sir.

Mr Guy Demarais: My name is Guy Demarais and I'm speaking at this hearing on behalf of the Housing Resource Centre. As the coordinator of the Housing Resource Centre I am extremely concerned about the proposed legislation of Bill 96. This piece of legislation would affect all services we offer within our agency. At the top of our list we are concerned about loss of affordable housing and also an increase in tenant harassment.

Affordable housing has always been necessary in the regional municipality of Sudbury. There has also been an ongoing shortage of affordable housing for lower-income individuals and families. For example Sudbury Housing, as of June 30, 1997, has 1,037 applicants who are on the waiting list. This includes 333 families, 283 seniors and 421 singles. This does not account for the geared-to-income applications with co-op non-profits within our region.

With high unemployment and an increase in lower-paying jobs, the demand for affordable housing will likely increase in the future. I feel that eliminating the total structure of rent control would be devastating for low-income people.

At the moment, a high vacancy rate has helped in various ways. Some landlords have lowered their rents. There has also been an increase in low-cost maintenance and renovation in repairs and painting. Some landlords have removed the required last month's rent and others offer to negotiate the last month with prospective tenants. This has also slightly increased the choice of housing for low-income individuals, but you must remember this is mainly attributed to the high vacancy rate we have at this time.

With the loss of rent control, a lower vacancy rate can be devastating because the market value of renting could be determined by lower vacancy rates as opposed to a better economic situation. The numbers clearly show there is a need for affordable housing. We should not threaten this by implicating the legislation related to Bill 96. I certainly can't relate this legislation in any way to what we call the Tenant Protection Act.

Bob Arsenault, a government spokesman, said, "British Columbia eliminated rent control in 1991 and rent increases averaged 2.8%." He failed to mention that rents in British Columbia are very high, so substantial increases are unlikely. He also failed to mention that there's a great shortage of affordable housing for low-income people. On July 10, 1997, BC's municipal affairs and housing allocated \$500,000 for community housing initiatives. This money is basically used to find solutions for the lack of affordable housing for low-income people.

With the removal of rent control, it will be easier for landlords to evict people at their own discretion. It will give them the right to discriminate by looking at the type

of job and income or anything else to satisfy themselves. This will surely increase disputes between landlords and tenants. We have laws in place at this time that are not enforced due to lack of resources.

The rent control board for the month of June had a total of 1,125 inquiries: 386 were from landlords, 548 from tenants and 173 from others; 302 inquiries pertained to the Rent Control Act and 797 inquiries were related to the Landlord and Tenant Act. The rent control board registers complaints as inquiries. They do not have stats on the number of calls that are complaints and how many are actual inquiries. The numbers alone show that 797 inquiries concerning the tenant act in June are reasons for concern. With the proposed changes to the act, which would increase the power of landlords, I could only guess at how many more so-called inquiries will be made. None of us have a crystal ball, but does anyone here believe that inquiries or complaints will decrease with this new proposed legislation?

With the elimination of rent control, the housing market will become unpredictable. Landlords will raise their rents when the vacancy rate decreases and download their costs to tenants whenever they can. Harassing tenants will also be easier for landlords. This is total unfairness. We have homeowners among us who also have tax increases, repairs and maintenance and decreases in the value of property in this economic situation. Do we get raises in pay or feel someone else should be paying for some of our losses?

There are good tenants and there are bad tenants, as there are good landlords and bad landlords. My question is, who is going to benefit from this piece of legislation?

As coordinator of the Housing Resource Centre I get to talk on a daily basis to both tenants and landlords, so I see it from both sides. As far as discrimination, I see it on a daily basis. We have landlords who list through us and we provide listings for people who have trouble finding affordable housing. For example, I sometimes get landlords with a two-bedroom apartment calling and saying, "I want to rent a two-bedroom apartment but I don't want any kids." Talk about discrimination. I say, "I'm very sorry but I can't list your apartment in that way." We see it every day on some stuff that's minimal; just look at the paper: "No pets allowed." We have legislation in place right now that's not being enforced. What's going to happen when we open up the market? I've even seen listed in the paper — I couldn't believe that was in the paper — for shared accommodation with somebody, "Only working people need apply." I don't know why that even hit the paper.

Right now we're not too bad because of the high vacancy rate. What's going to be scary is when the vacancy rate lowers. I think that construction, as far as people building houses, building apartment blocks, is mostly based on the vacancy rate. With a high vacancy rate I don't think this legislation will encourage builders to build any more than they are now. Thank you.

The Chair: Thank you, sir. We've got time for some questions if you're prepared to entertain questions from the committee.

Mr Gilchrist: Thank you, Mr Demarais. I appreciate your coming before us today. Have you been active in this current posting for a period of time? How long have you been handling the resource centre?

Mr Demarais: I've only been at the resource centre for a period of three months.

Mr Gilchrist: So you couldn't tell what the waiting list was in June 1995, then, up here in Sudbury?

Mr Demarais: No. I'm just looking at the facts right now and I think it's very high.

Mr Gilchrist: In Scarborough, just anecdotal evidence perhaps but it's the one I'm most intimately familiar with, the waiting list on the day of the election was seven years for new housing in Metro Toronto, seven years under the current act. I'm proud to say it's down to under four years already in Metro Toronto, and in some categories, depending on whether you're looking for a bachelor or a four-bedroom — obviously a four-bedroom would be the longest and a bachelor is significantly less. For most people who come to us in dire circumstances we can get the housing authority to move heaven and earth and get them in pretty quickly. In fact, the transient shelters that had taken over almost every one of the motels on Kingston Road had 1,000 people in them on the day of the election. There are now fewer than 400 because all the rest have found permanent accommodation. That's the reality of what's happening, even in a marketplace with a far lower vacancy rate than you have here in Sudbury.

Let me follow up on something you've just said there, and I think you've hit the nail right on the head. I'm somewhat intrigued that we're approaching this from a different direction but have arrived at the same point. Correct me if I'm wrong, but it's your submission that the high vacancy rate has led to better service —

Mr Demarais: Slightly, not all —

Mr Gilchrist: Indeed, not all landlords, I accept that, but in general terms it has led to better choice for tenants, I think you said, and has led to a more competitive environment in terms of being able to negotiate certain clauses or maybe even the base rent itself. If a certain landlord is desperate to get something, he may want \$600 a month but he'll take \$500.

Mr Demarais: There's a reason behind that. If the landlord hasn't rented it for two months, right now at this time sure he'll do that, and that's an economic decision.

1400

Mr Gilchrist: I accept that. Then would you accept that if new housing were to come on the market in a place where the vacancy rate is lower, you would have effectively the same impact? The new apartments are obviously vacant on the day they're built, and that would have the same competitive impact. Would you not agree with me that if we can do something to stimulate the construction of new apartment units, particularly geared to where the demand is highest right now, which is the lower

and middle-income apartment dwellers, that would have the same impact as what you've just said has taken place in Sudbury? We'd see better choice for tenants, we'd see lower prices and we'd see more choices for tenants.

Mr Demarais: Not necessarily.

Mr Gilchrist: Why not? Why wouldn't more new housing do the same as more old housing?

Mr Demarais: First of all, I think it's unrealistic. With the high vacancy rate you don't see —

Mr Gilchrist: No, sorry, I said not here; in a place with a lower impact, let's say Toronto, which is at 1.8%. Sudbury, by the way, and you probably know this, has the highest vacancy rate in all of Ontario. Toronto, at 1.8%, has tripled its vacancy rate since we were elected. But if all of a sudden more new housing were built in Toronto, would that not create the same impact you've experienced here in Sudbury?

Mr Demarais: With the control you want to give landlords, no, I don't think so. There's a reason for that. Right now I have people calling their landlords. What happens is that they're listed through me and when their place is empty, they call me and say: "How much rent are you asking for? Would you please bring that down \$30, \$35?" I have other landlords calling me, "How much can I raise my rent?" That's because people are in there. There is no consistency.

Right now the housing market for everybody is down, for homeowners it is down. They're looking at it that they should be making a certain profit all the time. What some of them don't realize is that the vacancy rate is very high. It's the same with repairs. If you check the paper — it's not too hard; we don't need to do a survey here — for the ones that have been empty for a couple of months you see renovations, painting. But when people are living in apartments, I get people coming to me saying: "I'm moving out. I'm looking for a place. I asked the landlord to do some renovations. He refuses totally." What does that tell me? Just think about that.

Mr Gilchrist: Contrary to what Mr Marchese has said, we have had builders appear before this committee, this hearing, and say they will, once this bill is passed, have the confidence to build more new apartments up to today's building code. That's what has been said on the record in these hearings and we'll hold them to that. I suggest to you that you'll see exactly the same benefits in places like Toronto that you've seen here in Sudbury. Here it has been caused by a vacancy rate in existing units. In other parts of Ontario we hope it's competitive pressures brought by bringing new units on stream. Hopefully history will prove us correct in that assumption and we'll see tenants get the same benefits you've seen here in Sudbury.

Mr Demarais: Could you actually state that the new housing that will be developed will be affordable housing?

Mr Gilchrist: I would expect it to be across the board. I know of at least one project in Scarborough East that's geared exclusively to low income just as of last month.

Mr Gerretsen: I hope, Mr Chair, being the wise kind of Chair you are, you will allow the other two caucuses as much time as Mr Gilchrist was allowed to have just now.

Mr Demarais: I relate to this gentleman's comment — I don't know what his name is — about interest rates.

The Chair: Mr Gerretsen has the floor.

Mr Gerretsen: I think it's interesting that the parliamentary assistant would suggest on the one hand that he needs this bill to get more construction going, because not a housing unit has been built since the NDP first came to power, according to what we've been hearing at this committee hearing not only today but on other days as well. On the other hand, all these people he's talking about have found accommodation since the date of the last election. I would suggest to him that the reason they've found alternative accommodation may have nothing to do with new construction at all. You can't have it both ways. You can't on the one hand say, "We need this for new construction," and on the other hand say, "All these people have found accommodation."

I found your statistics on the inquiries you get very interesting. I guess you get more inquiries on landlord and tenant matters, dealing strictly with the Landlord and Tenant Act, rather than the rent control aspect of it. Is that correct?

Mr Demarais: That's correct.

Mr Gerretsen: What kinds of inquiries do you get mainly on the landlord and tenant side?

Mr Demarais: We do a lot of referrals, on that point, but I'm just talking about the comments I get. I get a lot of comments from landlords. When they list, they sometimes feel they can put certain comments in there that are totally unfounded. The only thing I can tell them is that it's not allowed, that the way they approach people is none of my concern; I'm just telling them they're not allowed to proceed in this manner. But it's unbelievable how much landlords are not up on the laws at this moment, so I don't know what's going to happen when this bill changes.

Mr Gerretsen: Do you hear complaints from landlords to the effect that at times they cannot get rid of "bad tenants" quickly enough, people who are literally destroying their places? Let's face it, there are some of those people around.

Mr Demarais: I agree there are some of those people. But on an average basis, no, I hear more complaints about people who are just moving due to affordability and due to lack of maintenance being done to the place where they live. The only increase I've seen lately, like I said, and I looked back on the statistics we have down there too, is more in painting and minor repairs. That's because the place is vacant. To landlords it's a business, so I guess they have no choice but to try to upgrade it to make it look good. When they have a half a dozen people going through and none of them rent the place, there's probably a reason behind it.

Mr Marchese: Thank you, Mr Demarais. Many people will be affected by this and there will be middle-class people as well, but particularly low-income, as you

stated and as others are stating here today. Mr Gilchrist and I have a big difference, as you might have imagined or heard. Contrary to what he says, the developers have said they might build, but if they build, it will be at the high end, not the lower end. He knows that because that's what we've heard. They've all heard the same thing I've heard.

This landlord and others have said, "It's okay that it's at the high end because then these other people will move there," therefore leaving openings for presumably these other low-income people. We don't think we're going to get too much housing as a result of this government saying, "We're not building because there's a big gap" — that's why the private sector isn't building — "between the cost it takes to build and what someone can afford to rent at that level," so there's no demand.

The supply and demand isn't working here and the demand has to do with whether you've got cash in your pocket to be able to rent at that high end. That's why they're not building. Wouldn't it be wonderful if they had a choice? Yes, but it would be wonderful if we had a choice where low-income people would say, "Yes, I'd love to be able to have a choice of something I can afford."

Mr Demarais: I know. I deal every day with people looking for affordable housing and it's very hard. The only way we do it, and it's still difficult, is that we go through all newspapers plus landlords who list with us and we update that on a daily basis. People come and get five, six pages of one-bedrooms or two-bedrooms and sometimes come two days later and give me an update that they can't find anything with that many places listed.

Mr Marchese: Right. There's another factor here about the vacancy rates because sometimes they make it appear like vacancy rates are high, which means it's good. But the reason why vacancy rates are probably high in some areas is because it's at the high end. Most of the low-income people you represent can't afford to rent at that high end. Is that your experience or am I imagining this?

Mr Demarais: It is. When people have to come back for more listings, it shows there's still the affordability factor. Even now we have people with this high vacancy rate and a lot of listings saying, "Oh, my God, is it ever expensive." But these people are low-income and they're looking for a specific price and it's just not there. I'd say over 90% — and we take stats on the over 90% — of people pay about 50% or more in rent than what their income allows.

The Chair: Thank you, Mr Demarais, for coming this afternoon.

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NORTHERN ONTARIO REGIONAL COOPERATIVE HOUSING ASSOCIATION

The Chair: The third presenter this afternoon is Donna Mayer of the Northern Ontario Regional Cooperative

Housing Association. Good afternoon, Ms Mayer. You may proceed when ready.

Ms Donna Mayer: Thank you for the opportunity to address the standing committee on Bill 96. The Northern Ontario Regional Cooperative Housing Association, NORCHA, is a federation of housing cooperatives. We work to unify the cooperative housing sector of northern Ontario with mutual support and problem-solving by providing education programs and activities for boards of directors, committees, staff and members of housing co-ops.

NORCHA can be characterized as a landlord association, as our members are housing co-ops rather than individual co-op housing members. We are in the business of teaching co-ops how to be good landlords. We want to address the committee today because we believe housing is a fundamental human right. Ours is a general presentation for a few reasons.

First, we do not have the resources to research the bill in its entirety. This bill is no small tinkering with the law. It involves not only changes to the Rent Control Act and the Landlord and Tenant Act but also the Human Rights Code, among others, and it proposes a whole new quasi-judicial process for enforcing the rights of consumers.

Second, you have received and will receive submissions from far more knowledgeable and resourceful people and groups than ourselves. Specifically, I will refer you to the submissions by the Centre for Equality Rights in Accommodation, and by Keith Norton, the chief commissioner of the Human Rights Commission. The submission you received today from the Legal Clinics' Housing Issues Committee is without a doubt the best analysis you will find on the bill anywhere in the province. No one in Ontario is better qualified to assess the implications the bill will have on tenants and the administrators of justice. If you have time in committee to review only a few of the recommendations received through your hearing process, please ensure the brief by the Legal Clinics' Housing Issues Committee gets a thorough analysis. Certainly we endorse their recommendations.

Third, as to the general nature of my presentation, quite frankly I personally just don't have it any more and if we have time, I'll get back to this a little later.

Bill 96, as it stands now, is intrusive, offensive and immoral. The most offensive part of the bill is of course section 200, which will legalize discrimination against poor people. You have heard it many times. No one disputes a landlord's right to determine a consumer's creditworthiness, but we do object to using income information as a basis to discriminate against people.

In housing co-ops and other forms of social housing we must submit to income verification to retain a subsidy on our rents. We do this to prove we are in need of financial assistance, not to prove we are worthy of having a place to live. In the co-op sector we have confidence that our personal business will be handled in a confidential manner. If it is not, there are repercussions. What

remedies will tenants in the private rental market have when landlords share their personal information with whomever they choose?

If you keep section 200 in the act you are saying that people have equal opportunity for housing only if they have enough money. Where are you going to put all the homeless women and children? I really want that question answered, I hope today.

In regard to the amount of money which is commonly regarded as being affordable, that is, 30% of gross household income, let me assure you it is not an affordable benchmark. In co-op and social housing in Ontario, tenants and members have been facing higher rent increases over the last five years than any other renter in the province. The rent-geared-to-income ratio has increased 1% per year, raising it from 25% to 30% in provincially administered social housing. This works out to approximately a 4% increase every year for five years. The effect on your net income is enormous. By way of example, in my own case, I am presently paying 41% of my take-home pay on rent.

What this means is that social housing is no longer affordable to the working poor, neither the people who live there now, nor the thousands on waiting lists. The idea that the private market can't compete with co-ops and other social housing is total rubbish.

In the area of rent control, passing the full cost of repairs and maintenance on to tenants is grossly unfair. First, tenants should not have to pay for neglect of which they had no part. Second, tenants should not pay for the profits landlords garner from the equity in their asset.

As for the affordability and the relation to the vacancy rate, certainly we know that Sudbury has the highest vacancy rate in the province. However, we also have above-average affordability problems. Over 50% of all tenants in Sudbury pay more than 30% on their housing now. It's really important, if you don't understand the difference between having sufficient supply of housing and the vacancy rate and the affordability factor, to go home and do some homework because there's a big difference between what is affordable and what is available, and that's what is at issue here. To make all these breaks for landlords so they can make more money is just going to make more homeless people. I really wonder where those homeless people are going to go.

Bill 96 is apparently about making the rental market a free market. How much freer do landlords need to be? It's one of the only places where you can actually conduct business without a business licence. Landlords should be licensed. That's the sort of legislative change we need to protect both landlords and tenants.

This morning on CBC Radio I heard Mr Gilchrist stating that the committee had heard from a lot of tenants' associations but no real tenants. I am a renter, and last year when I was unemployed I planned to present to your hearing on rent control which was held in Sault Ste Marie. I made it as far as Blind River; I was crying so much I just couldn't do it. Today it's really hard to come here again

and talk to you people. First, you made me unemployed, then you took away — you just took a lot away.

When you see that tenants aren't running to talk to you, it's because they can only take so much. I woke up this morning: "Do I really want to go bang my head against a wall? Do I really want to talk about all the work I've done for all these years that just got flushed down the toilet? Do these people care at all? Is there any hope that anything I say today or that any of the people here say today is going to have an effect and is going to help tenants?" The agenda of this government is very clear: You have your friends and they're not us.

So when you wonder why you're not hearing a whole lot from tenants, we can't see past tomorrow. Every day I wonder, when am I ever going to get that tooth fixed? I'm never going to get this tooth fixed, never. My future is so bleak it's not funny. Now you want to take away the housing. I am really sorry. We just don't have the fight any more.

Thank you and please give me questions. Despite my emotional state, I'm quite prepared.

The Chair: I understand. We will have a question per caucus. Mr Gerretsen is first.

Mr Gerretsen: I can certainly appreciate and understand, or try to understand, how you feel about this whole process, because I know a lot of people like you feel that a lot of the actions this government has taken have been directed against the most vulnerable in our society, and that's what's happening.

Could you answer a question? I asked the earlier presenter about the income provision. What we always hear from the people on the other side of the issue who think the information is relevant is, "Well, the landlords know it anyway and we may as well put it on the table so that at least it's out there and they know they're going to rent to people who are getting social assistance in one way or another," and that somehow justifies the fact that they have tried to legitimize this in this legislation.

How do you see that? Would you say that most landlords would know? Particularly in the co-op housing situation or any kind of social housing situation, if a person gets a subsidy, the income information is there. But how about other tenants who aren't in the social housing situation where they're getting a subsidy? Do you feel landlords would know where people are getting their income in any event?

Ms Mayer: In many cases they do because they ask, "Are you working?" and that sort of thing. We know many landlords actually like to rent to people on social assistance because in these economic times it is probably one of the more stable forms of income. But I think being able to go to my employer and ask for details and things like that is a little more intrusive than the sort of thing they currently have available or could get from the tenant. I think the critical answer here is that tenants are not going to rent a place that's not affordable to them, so finding out more about their income isn't going to ensure or guarantee they're going to pay the rent, if they're able to or not.

They're not going to rent a place they're not able to afford.

Mr Gerretsen: Thank you and good luck.

Mr Marchese: Ms Mayer, thank you. I want to urge you to continue to do what you're doing, because we all ask ourselves the same questions. Even in opposition we have similar kinds of questions about whether we should continue doing what we do, and we're committed to it. Even though you're on the losing end, we've got to do it.

You're right about this government. They have staked a claim. Mr Leach has accused the NDP of taking sides with the tenants. He clearly said he took sides too, with the other side, with the landlords. It's quite clear. The only thing for tenants in this bill is the title. That's pretty well all they got; everything else is for the other guys.

1420

Section 200 is something I need to come to, because you touched on it, and Mr DeFaria and I have a bit of a problem in this regard. You heard him argue this section. He pointed to section 200, and there are two parts and he said the second part says you can't discriminate. The first part says you can use the income information; the second part says you can't use it to discriminate. It's the same thing as saying, what they're saying, "We are all equal in society." "It's against the law to discriminate," says Ms Mushinski, the Minister of Citizenship, "so presumably it isn't happening, because it's against the law." She then comes up with something even better: an equal opportunity plan to indicate that we're all equal, and therefore, "Everybody in society is equal," she and they argue, "because it's against the law, and in addition we have an equal opportunity plan."

This section, in my view, says the same thing, "You can use it" — they give them the tools to discriminate but the other section says to the landlord — "but you can't discriminate." My view is they will use the tools and they will discriminate. I don't see a remedy after that. You pointed out, and a number of other people have pointed out, that there is no remedy in some of these cases other than their assurance that it's against the law to discriminate based on income information.

Ms Mayer: That's correct.

Mr Marchese: Thank you for coming. I just want to urge you to continue doing what you're doing.

Mrs Julia Munro (Durham-York): I want to thank you for making that personal effort in being here. I can assure you, having sat on a number of committees and having travelled around the province, that information we have received in this process has made and does make an impact. Certainly I can assure you on a personal level that I have seen that happen in the hearings I've participated in.

I want to go to the issue that seems to have caused people so much concern, and that is, of course, section 200. Most people seem to agree, and I just want to clarify this in your position, that the ability to make credit checks and to consult in terms of tenant reference is something you think is appropriate. I don't think any of us would

dispute that the question of income equalling good tenants is an issue. That isn't the base on which we see that this kind of information comes forward.

I want to ask you about situations, particularly for women who have left an abusive relationship, where they may not have a credit rating, they may not have a good credit rating, because of the relationship they find themselves leaving, and they may not have a tenant history. Is there something you can suggest to us that would be appropriate for a landlord to be able to ask? What other things? I would argue that it would be inappropriate for a landlord to turn down that person if those were not appropriate questions for that particular individual. What happens if that person has a job? Would it not then be useful information and to the benefit of that potential tenant?

Ms Mayer: Sure. What a tenant chooses to disclose to a landlord in order to negotiate a tenancy is up to the tenant to decide. I'm not sure if I totally understand your question as far as a woman's —

Mrs Munro: With this person or, for instance, a young adult who is a new renter, who may not have those things, does that mean the prospective landlord can't ask a question that would sort of offset that imbalance?

Ms Mayer: You tell me what that question is. The fact is there are many people, young people, newcomers to Canada, victims of wife assault, who don't have a credit history. It should not be used against them, period.

Mrs Munro: But then is there something the landlord can ask? The third option of income is one that obviously you find offensive. My question to you is, if the first two aren't germane to the circumstances of this individual, what does the landlord do now?

Ms Mayer: "Can you afford to pay the rent, yes or no? Yes? Okay."

Mrs Munro: But if he's allowed to ask some question of proof of ability, that is, through a credit check, then can he not ask for some kind of demonstration beyond your say-so?

Ms Mayer: That's the problem: There is no way to demonstrate it for some people. There's no credit history.

Mr Peter L. Preston (Brant-Haldimand): Then you're going to get turned down and discriminated against just because he cannot ask that question. As a landlord he has the right to protect his investment, so he says: "What's going to cause you to stay here? What's going to cause you to pay it?" You have no answers, because you're brand-new and you have no records. He's going to just say, "Well, I'm sorry, you don't qualify," unless he can say: "Do you have a job? How much do you make?"

Ms Mayer: No. "Here's my cheque. Take it." That's one answer.

Ms Martel: Sometimes it's not paid if they make lots of money.

Mr Gerretsen: The assumption here is that they won't pay the second month.

Mr Preston: That's right. That's the assumption, yes. There's no record.

Mr Gilchrist: Shelley, maybe it's finally sinking into you this isn't just geared to one income level, that with those condos on Bay Street that are rented, it's just as relevant to ask the question there.

Ms Martel: No, because you've got no guarantee that in the current shape and form the landlord is not going to use that to discriminate against low-income people and say: "Forget it. I don't think you make enough so I'm not going to rent to you." He's not going to flat out say that to their face. They're going to say, "No, I just don't want to rent to you, thank you very much; go home." That's what's going to happen.

Mr Gilchrist: How is that different than the current prohibition against checking on the source of income?

The Chair: Thank you very much for coming.

Ms Mayer: That's it?

The Chair: That is it. There are a few minutes if you have a few thoughts to conclude with.

Ms Mayer: No thanks.

UNITED TENANTS OF ONTARIO

The Chair: The next presenter is Nancy Bailey of the United Tenants of Ontario.

Ms Nancy Bailey: Good afternoon. I'm Nancy Bailey, co-chair of United Tenants of Ontario. I drove up this morning on the highway from hell, from Sault Ste Marie. I wish you guys could've enjoyed the ride from Thunder Bay.

I'm here today to speak to you on behalf of tenants across Ontario, especially northern Ontario. I'm not going through a clause-by-clause analysis of Bill 96 because I feel it's already been done to death and it's up to the legal experts to do so. However, I have major concerns about Bill 96 that I would like to speak to you about.

My major concern is discrimination. This government has been promoting a lot of discrimination between rich and poor, haves and have-nots. This has to stop. Perhaps you're wondering why a blond WASP worries about discrimination. Too many blond jokes perhaps? No, because I have been the victim of economic discrimination. Section 200 in the TPA allows a potential landlord to discriminate against a potential tenant based on where they receive their income, contrary to the Human Rights Code.

If you're in receipt of family benefits, general welfare, Canada pension or unemployment moneys, they can refuse you accommodation. The landlords asked for this one after their own were on the verge of losing a 59-day hearing in which the landlord failed to prove that a low income tenant is more likely to default on rent. According to Bill 96, it doesn't matter if you have first and last, a good credit rating, references from previous landlords, if you're on social assistance, you're a deadbeat.

I beg to differ. I remember about 15 years ago when I applied for an apartment, mainly because it was \$50 cheaper than what I was currently paying. I had always

paid my rent on time. I had first and last. I had excellent references from previous landlords. I was working part-time consistently and my son had never been a problem to me or other tenants. The superintendent who showed me the apartment was a former client of mine. I filled out the application and waited a few days to hear when I could move in. When I called the office of this complex, they told me they had misplaced my application and now they rented the apartment to someone else.

I called the superintendent to see what had happened to my missing application. I have never forgotten what she said: "Oh, Nancy, I don't know why you even applied here. Everyone knows they don't rent to anyone on welfare or even partial assistance." The hurt and outrage I felt was enormous. I felt totally degraded and humiliated. At the time I don't even know if the same laws were in effect; I know I didn't know my rights. But 10 years later I would've had them up on charges so fast their head would've spun.

If discrimination can happen to me, of course I'm concerned about my native friends. One told me that when looking for an apartment she calls the prospective landlord's office and asks them outright: "Look, I don't want to waste your time or mine. I will not file a complaint. Just tell me if you rent to natives." Some tell her honestly, no, they don't rent to natives; others won't give her a direct answer; others claim never to discriminate; and others have even said they don't rent to local bands but will rent to out-of-town bands. If this kind of blatant discrimination happens now with the present laws, what's going to happen when you pass this bill with section 200?

On the other hand, a friend of mine and her husband own a triplex in which they and their two tenants live. She has often told me her best tenant is the guy on welfare. He has literally run down the street after her with rent in hand to make sure she has her money. When he works, he'll pay her for months in advance knowing the job will end and it takes a couple of months for unemployment to come in regularly. My friend has had other tenants who have moved out with no notice, been late on rent, caused damage. But this one guy, who for more than seven years has lived in her building, has paid the rent on time, has not been any trouble to her or her family or neighbours. As far as she's concerned, she wishes all her tenants were like this man and she would rent to someone on welfare in a second.

1430

I live in a non-profit and have served on the board a couple of times. I can tell you that in any given month, 94% of the rent is on time. Others are delayed a week or two by pay schedules at their job and FBA overdeducting them for working and the replacement cheque taking a couple of weeks to arrive. Nevertheless, in talking to my neighbours, I can say that their number one priority is to pay the rent, to make sure that at least they and their family have a roof over their heads.

I've worked the last four years at a long-term-care facility, reputedly the best in Sault Ste Marie. As their hairstylist, they often tell me of previous care homes they have lived in. My sister has also worked in a couple of these care homes as a health care aide. From both these sources I've heard incredible horror stories, from people not being fed because they could not manoeuvre a spoon and the only health care aide on the floor was busy with other residents, to a health care aide being made supervisor instead of hiring an RN, to people dying and no one discovering that for hours because of a lack of staff.

Care homes need more specific standards and regulations, similar to long-term-care facilities. I know we all resolve to never be in one of these places, but we don't know what our future will bring us. I am very concerned about the elderly in these facilities who know they have a long list to wait on until they can get a better place, and in the case of advanced Alzheimer's the only place they can be referred to. I'm worried about some administrator deciding a particular resident is too much trouble and evicting them, saying they need more care, but there is nowhere for that person to go.

I'm also concerned about discrimination against tenants in northern Ontario and rural areas, who are under-represented and totally ignored. You have revised the land-lease laws regarding mobile home communities, but I wonder if you've ever seen a park in northern Ontario. They are not the lovely, desirable developments in Florida, but are often referred to as the public housing and the slums of the north. There are five of these communities around the Sault. Two are nice but definitely rural, two have a number of problems but are livable and the last one I wouldn't raise a dog in, let alone a child.

You now say not only can the tenant be evicted, but their home as well as their property. Here's some big news for you city boys: Mobile homes aren't. Most of these buildings have been on foundations and the wheels off for 20 years. They require a transport truck to move them, not your car. If a person had the money to hire a crew and a transport and buy a piece of land to park this on, I don't think they'd be behind in their rent.

From the other changes in these laws, it appears that the owner of the park will end up owning all the trailers, either by getting the first offer on the trailer for sale or from rent owing with the increase of higher cost pass-through. Why is it fair for increases to be passed on, but not decreases? This discriminates against all tenants, especially when we don't get to see the paperwork and it's not filed with any government agency like the rent registry.

There is discrimination against tenants throughout this legislation, but you've also forgotten the developmentally and learning-disabled, the immigrant who cannot read English and those who cannot read a document posted on their doors telling them they have five days to answer this notice or be found in default judgement.

I have two nephews who are dyslexic. The younger one has it so bad I could see him leaving that piece of paper on

the door thinking it's some sort of decoration until somebody else notices it and reads it to him. You have to see that the immigrant, the person of colour, the elderly, the social assistance recipient, the physically, learning or emotionally disabled will be at a great disadvantage to speak, let alone defend an action in regard to their tenancy.

I implore you to take this legislation back to a committee with tenant legal workers and advocates to make the rules of the game more fair for both sides.

I'm afraid that under your present Bill 96 there will be increased harassment and discrimination. You, as representatives of the population, have the power now to change this legislation and introduce a new law to be proud of, and not make change for the sake of change and pay back some of your big landlord buddies.

If you cannot make some fair and reasonable changes to this bill, then why not leave the five present laws as they are and go back to your ivory towers and leave us bad little kids who didn't vote for you alone, because although you have the power now, there are a million voting tenants who in a year and a half will remember those who told them that rent control and their rights would not change and those who said they would never discriminate and do.

The Chair: Thank you, Ms Mayer. There are questions, I believe, from the committee members.

Mr Marchese: Thank you very much, Ms Bailey, for your presentation. You used to get funding from our government in the past, as the United Tenants of Ontario.

Ms Bailey: Yes.

Mr Marchese: You don't get any more funding from this government, do you?

Ms Bailey: No. We were defunded within a month of them coming to power.

Mr Marchese: Have the needs of tenants changed so much that you shouldn't get the funding, do you think?

Ms Bailey: No. In fact, all of us, including myself, came up at my own expense. I paid my own staff to work for me. We do it all voluntarily.

Mr Marchese: It seems to me from the changes this bill is making — and I pointed out that the only thing for tenants is the title, the tenant protection package, because most of the other changes are for landlords — this is the time to fund organizations like yours, not defund them.

When we went through the first hearings, if you recall, they made very few changes, hardly noticeable changes. Some were for landlords. I'm not sure what there was for tenants but maybe they'll be able to tell us. Mr Gilchrist has shown a whole list of changes that they're considering, so I'm optimistic. Hopefully your concluding remarks will lead to something they can be proud of, but I'm not sure.

All the changes here, like vacancy decontrol, are going to affect the people you were talking about. There is going to be an increase, in spite of the fact that one of the tenants this morning, Ms Lynda Beavis, said, "They're dreaming if they think rents are going to go up." We're all afraid

that vacancy decontrol means rents will go up. Why are they doing it otherwise? If they're not going to go up, why touch the system? The tenants who stay are going to face an increase. They're going to face an increase because the taxes and utility costs are going to be passed on now.

The capital costs go from 3% to 4%. As one of the previous speakers, Tim Welch, pointed out, if landlords were to apply for capital costs of 3%, they would have to justify how that 2% had been spent previously for other maintenance stuff. Now they don't have to prove that any more.

This says that landlords have six years to be able to get back rent arrears, but the same doesn't apply for tenants who are trying to recover for illegal rents that have been charged over the years.

There are so many changes I don't have the time to raise that affect tenants. United Tenants of Ontario could be there to assist them in some little way. Are you making an appeal to these guys somehow, just to give you a little money so you can continue to do some of the work you used to do before, or are you beyond that?

Ms Bailey: No, we gave up on that.

The Chair: Ms Bailey, I earlier called you the wrong name and I apologize for that. Mr Gilchrist has a question.

Mr Gilchrist: Thank you, Ms Bailey, for your presentation. I have just a quick comment on Mr Marchese's suggestion that nothing has changed since last year. I'm looking at page after page of changes, a number of them in fact directly related to comments you've made; for example, the institution for the first time of anti-gouging restrictions, the setting of rent in mobile home parks, security of tenure for people who live in buildings that someone proposes to turn into condominiums. That may not have affected you directly, but I can tell you in Toronto and many other urban centres that's a big problem right now. For the first time, tenants are now absolutely, positively guaranteed that they can stay there. If the rest of the building is converted to condos, that's fine, they still have security of tenure.

Also, determining which are eligible capital expenditures. Mr Marchese talked about the 2%. We've focused and refined the specific things that will count that could be added to the rent.

Ms Bailey: Do they have to register their paperwork with anyone?

Mr Gilchrist: Absolutely. They have to prove that they've spent those dollars. It's not the quote; they have to show the invoice.

Let me go back to your very opening comments. Forgive me, but I have to be very direct in this: You are absolutely, positively 100% wrong in your interpretation of what section 200 is all about. It does not delete the prohibition that exists today about discriminating against tenants on the basis of the source of income. That section of the Human Rights Code is not changed, not one word of it is changed.

1440

Ms Bailey: How come the human rights commissioner said it was?

Mr Gilchrist: He did not.

Ms Bailey: He did too. I saw the letter.

Mr Gilchrist: Excuse me, he did not say that the section regarding source of income, which is your point, was changed. He has said —

Interjection.

Mr Gilchrist: Mr Marchese, please show a little respect. The bottom line is that right now it is legal in Ontario to ask a prospective tenant how much money they make. It is legal to ask an income question. Every single landlord who has rented to all those people whom we are told — and we see it in our own communities — are paying more than 30% of their rent right now clearly has done that regardless of what their income was.

We've heard group after group come before us saying that, simply putting on to paper the fact that this right exists, and all of a sudden landlords will behave differently. Where's the empirical data that right now tenants are being discriminated against on the basis of the amount of income? Because it's a legal right today. On the other hand —

The Chair: Mr Gilchrist, I'm about to go "bang."

Mr Gilchrist: I'll be very quick, 30 seconds. I will say this: If you are aware of people who are getting response that you've just said — and by the way, it's been there for 10 years — about the source of income —

The Chair: Thank you, Mr Gilchrist.

Mr Gilchrist: — call the Human Rights Commission because that section won't change.

Mr Gerretsen: I'm curious. You talked about the rights of immigrants and disabled groups etc. I'm an immigrant to this country myself and I know that many immigrants when they first come here will try to put as much money together to buy a house or to pay as much down on a mortgage or to pay as much rent as they want because that is where their priorities lie. I guess the main concern that you have with the income information section is that landlords will, in their own minds, not on paper, not out in the open, determine whether or not a person should be paying more than 35% or 40% of their income towards rent. Is that one of the concerns you have?

Ms Bailey: Yes. We don't want them paying more than they can afford, but by the same hand, when you go for a mortgage, 35% of your income is the cutoff for your mortgage.

Mr Gerretsen: But the point is that if a tenant wants to get an upgraded accommodation and pay 60% of their income towards rent or on a mortgage, that should be up to them and the landlord should not determine that.

Ms Bailey: You're right.

Mr Gerretsen: That's one of the main reasons for section 200 being there. It will give landlords — how shall I put it? — a foot in the door to try to get as much information. Of course, as has been stated before, what

that information is ultimately used for once they have it is totally out of anybody's control.

Mr Marchese: But they can't discriminate.

Mr Gerretsen: That's right. It's very easy to say. Just by merely saying it, that makes it so.

Ms Bailey: Yes, it never happens.

The Chair: Thank you very much for coming.

SUDBURY COMMUNITY LEGAL CLINIC

The Chair: The next delegation is Bruce Best of the Sudbury Community —

Mr Gilchrist: I dare you to make that insinuation to a landlord to his face.

The Chair: Mr Gilchrist, I'd like to say the name — Bruce Best of the Sudbury Community Legal Clinic.

Mr Bruce Best: My name is Bruce Best. I'm a staff lawyer at the Sudbury Community Legal Clinic. I trust you all had an enjoyable month of July in your constituencies.

Mr Gilchrist, carrying on about section 200 here, if it's not changing the Human Rights Code, then why is it in the TPA?

The Chair: Mr Best, that's not the way we're doing it here.

Mr Best: I think this is something which is current.

Interjections.

The Chair: Do we have unanimous consent that we can have a dialogue between Mr Best and Mr Gilchrist?

Mr Gerretsen: For no more than three minutes.

Mr Gilchrist: You lost that one.

The Chair: Mr Best, you're going to have to wait until Mr Gilchrist's turn comes. You may proceed, sir.

Mr Best: In reviewing the Tenant Protection Act, one of the first things that jumped out at me was how the act seems to have a different view of people whether they happen to be landlords or tenants. It's something that kept on popping up, that landlords seem to be assumed to be honest, forthright and trustworthy people, whereas tenants are perhaps underhanded and sly. This is a very disturbing theme to view, especially in legislation, not in the least because it's completely false in my experience.

I'm sure you all agree there are good landlords and there are good tenants and there are bad landlords and there are bad tenants. This has always been the case. When part IV of the Landlord and Tenant Act was introduced, it was recognized that the law must introduce procedural safeguards to protect the vulnerable from abuse and to introduce an element of certainty into the dispute process. This certainty has been compromised with the present act. The protections that have been afforded tenants are being removed because it is seen that landlords are more deserving of this kind of protection.

I also disagree with Mr Marchese. I don't think the title is the only thing for the tenants. I don't believe the title in itself is for tenants. I think it might be protection from tenants rather than protection for tenants.

I believe the current Landlord and Tenant Act is flawed, certainly. It contains much arcane legal argument and language, and most parties to landlord and tenant disputes do not have the benefit of counsel and have to deal with these issues on their own. Much could be done to make a renewed residential tenancy act better and more accessible for both landlords and tenants. However, this has not been done with the TPA. Much of the language and much of the uncertainty has been transposed, often verbatim, from part IV of the Landlord and Tenant Act. Even worse, there are a lot of things which have actually been taken away, such as the definition of "spouse," which was something that was present and is no longer.

The Tenant Protection Act, as it is now drafted, changes the landlord and tenant law to protect landlords from unscrupulous tenants. That seems to be the real theme of the changes that have been made. For example, clause 72(1)(a) allows a landlord to enforce an oral agreement to terminate, and this can be enforced without notice to the tenant. Why is the current requirement of a written agreement removed? The assumption is that landlords, being upstanding fellows, would never make this up, there would never be a misunderstanding between a landlord and tenant as to what a conversation actually entailed or what conclusions were reached. But I don't quite understand. Why take away a written requirement?

Another example is the issue of locks, which I'm sure has come up before. Currently, as you know, neither landlord nor tenant may unilaterally change the lock. Now a landlord may change the lock, provided they give keys to a tenant. First of all, in terms of uncertainty — I hope this is something that will be addressed — it doesn't mention when keys should be given to a tenant. I think for the sake of certainty it should be specified that keys should be given before locks are changed. Furthermore, there's no reason why tenants shouldn't be able to change locks as well, at least as applies to their own residential unit. I can understand the problem if you're dealing with a large apartment building and wanted to change outside doors, that this is a real problem for landlords if they have to come to a consensus with all the tenants. However, as it applies to a residential unit, it is the tenant whose safety is at issue and it is the tenant who should be able to change the locks if the landlord refuses to.

Another issue which I have with the Tenant Protection Act is the paternalistic, patronizing way the sections are phrased. With regard to section 200 and the income provisions, it assumes that a landlord is better able to assess a potential tenant's ability to budget than that tenant is. It assumes that a landlord is better able to judge whether or not a tenant's safety is at risk with regard to the changing of locks and it assumes that landlords are better at understanding a conversation between a tenant and themselves.

1450

As far as procedural fairness goes, another issue is the ability of the tribunal to amend an application at any time or allow the landlord to amend an application at any time

during the proceedings. This means that a tenant may be forced to deal with issues that they were unaware of prior to a hearing. It may be argued that the same advantage will be given to tenants on a tenant's application so that this is a tradeoff which is acceptable. However, this argument doesn't really hold water. First of all, most applications are brought by landlords. Second, whereas the end result of a successful landlord application will in most cases result in an eviction, a tenant application will most often be about repairs or money. The prejudice to tenants in allowing an amendment at the 11th hour far, far outweighs any prejudice to landlords in a tenant application.

In conclusion, it is of vital importance to ensure that the procedural safeguards are in place to protect tenants. It's in the interest of all parties to know how the process works. We want the Ontario government to listen to the one third of citizens of Sudbury who rent their housing. We want the government to recognize the potential for abuse and to make sure that residential tenancy law will not harm the most vulnerable members of our society.

The Chair: Questions?

Interjection: I think there's one out there.

Mr Gilchrist: Well, let's go back to section 200. If I recall, you posed the question, what was added by or what was the intent —

Mr Best: You earlier stated that it was not going to be changing the Human Rights Code in any way.

Mr Gilchrist: It was not changing the section on the fact that you cannot discriminate on the basis of source of income. Do you disagree with that? Source of income. There's a section in the Human Rights Code right now that says I can't discriminate against anybody, and it was there obviously intentionally to deal with people discriminating against those that are receiving government assistance.

Mr Best: Right.

Mr Gilchrist: Is it your submission that I'm right, or am I wrong?

Mr Best: If you will allow me to quickly review the section.

Mr Gilchrist: Sure.

Mr Best: The question I'm posing is, this amendment, section 200 of the TPA, if it is not affecting the act, then why is it being put in?

Mr Gilchrist: Now you're answering a question with a question. I asked you because you had said you were following up the previous comment that this changed the existing Human Rights Code section prohibiting discrimination on the basis of source of income. Could you read for me anywhere in section 200 where it says it's doing that, or would you agree with me that the preamble says it is amended by adding an additional subsection, a new subsection? Is that what that says?

Mr Best: Saying that you can collect this information but you cannot use it to refuse someone tenancy —

Mr Gilchrist: Thank you.

Mr Best: Does this mean that under the Human Rights Code, if you collect this information, you're required to

take them as tenants? I don't think so. That seems to be what you're implying.

Mr Gilchrist: Right now, can I ask if you're on government assistance? If I have an apartment building, am I in any way restrained to ask the question, "Are you on government assistance?"

Mr Best: I would consider that discrimination.

Mr Gilchrist: Then small wonder the legal system is in the state it's in in this province. Obviously you can ask the question. You can't discriminate once you've had the answer. Despite all the hand-waving from Mr Marchese, that exists today. That's a protection people in this province have, and it's going to continue. Right now it is legal for a landlord to ask a prospective tenant, "How much do you make?" But there's nothing in the Human Rights Code today that stops a landlord from discriminating once he has the information. Once this section is there, he or she will be prohibited from using that information to discriminate. That is a new right that people will have.

Mr Best: By being able to collect the information —

Mr Gilchrist: They can do it today. Are you aware of a single case right now anywhere in the province where a landlord has abused the knowledge of the income of a tenant?

The Chair: Mr Gilchrist, we must let Mr Best respond if he wishes to.

Mr Best: By permitting the collection of the information, there is absolutely no way that it can be enforced that that information was used as discrimination.

Mr Gilchrist: Okay, but by that interpretation — so right now there is no way to enforce the Human Rights Code that says it's legal for me to ask if you're on government assistance but I can't use it to discriminate. Is that what you're telling me?

Mr Best: That's information that you will use to discriminate. That is what we can control in terms of trying to respect the human rights of low-income people in this province.

Mr Gilchrist: I'm afraid you haven't answered a single question here yet, but if you're aware of a single landlord anywhere in this province who has discriminated against a tenant —

The Chair: Mr Gilchrist, it's Mr Gerretsen's turn.

Mr Gerretsen: I guess the real question, just following up on that, is whether or not a landlord is able to make the proper kinds of judgement by merely getting information relating to credit checks, credit references, rental history, possible guarantees etc. My question to you is, if a landlord is able to get that kind of information, why is income information so relevant? Can you see any reason why income information would be relevant?

Mr Best: Because of the potential for discrimination, which will come, which that information can be used for, and the discrimination in particular it will have upon recipients of social insurance.

Mr Gerretsen: I was very much struck by something else you said at the beginning, that the whole tenor of the

act — and I must admit that I didn't focus on it until you actually mentioned this — is that it seems to talk about landlords in very positive terms, as if a landlord can do no wrong, whereas everything as far as it relates to tenants in the act is always in sort of negative terms, as if tenants are people who should potentially be feared by landlords. Could you expand on that?

Mr Best: I would say this. In so many of the changes in particular, as I said, landlords tend to be given the benefit of the doubt. This is particularly the case where provisions are sufficiently vague, when it actually gets towards a hearing or when you're talking about notice provisions — the notice is something else which has come up, I'm sure, several times. There's not as much certainty any more, and this is for the most part going to be going to the benefit of landlords, as I say, this fogging of the procedural requirements and the procedural safeguards.

Mr Gerretsen: I was very much taken with a comment made earlier this morning where apparently a hearing can be held on a matter of five days' notice, and yet written notice can be given and mail is — not "meant" to be delivered but is —

Mr Best: It's deemed.

Mr Gerretsen: It's deemed to have been delivered within five days, which could actually be the day after the hearing is held.

Mr Best: Yes, the written response. I think that's something which this committee is definitely going to have to consider in great detail, the requirement of a written response, which I mentioned as well. It's unsure where that came from. I've worked in several legal clinics in the province. I have dealt with a lot of tenants who are from other cultures who may not read English very well. I've dealt with a lot of tenants who are illiterate. Generally, if someone has real problems with language, they can show up on the day, but having these procedural barriers put in place where you have to put in writing a response within such a short time frame, that's why it has to be — and it's all deemed. As I say, you could do your best efforts and still not make that.

Mr Marchese: Thank you, Mr Best. You've raised a few other issues that I'm hopeful the government will be reasonable with, given that they use common sense as part of their tools for reasoning.

A number of lawyers have made a number of references that you've touched: A tenant should be entitled to alter the locks at any time if there are valid reasons for doing so, provided the tenant gives the landlord the new key.

Mr Best: Right.

Mr Marchese: You said that and a number of other people have said as much. I'm assuming that's a reasonable request. Hopefully, Mr Gilchrist —

Mr Preston: Mr Gilchrist already said it was.

Mr Marchese: Mr Gilchrist, you said that it was?

The Chair: I think we're going to have to address this stuff through the Chair.

Mr Marchese: Yes, fine, Chair. Thank you.

"A landlord should not have the right to enter premises after giving notice of termination unless the tenant does not intend to challenge the notice of termination."

Mr Best: I agree there's something else which may come from that in terms of the abuse of the system. There's really no prejudice to a landlord giving a notice of termination. If a landlord wants to enter without 24 hours' notice, all they have to do is give a notice of termination.

Mr Marchese: Anyway, there are a number of things that many lawyers have presented here on which there's agreement. I was just trying to recap a few, but I'm hoping they are taking that into account, if they haven't already agreed. It's hard to know to which matters they've agreed.

But section 200 is preoccupying me, and some of the other government members as well. The argument is something like this. At the moment, some — I'm not sure how many — landlords are using income information. They're saying it's legal. I'm thinking they're using income information and they're probably using it to discriminate. How are we to know? But some of them are probably afraid, if it's not law — they're probably afraid because if a tenant decides to take them to the Human Rights Commission, it could become an illegal act. There are probably cases where that has been taken to the Human Rights Commission, but I'm not sure.

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They're saying, "Given that landlords are now doing it, we're going to put it into the act and say that you can use income information, but the second part of section 200 says it's illegal to use it to discriminate." How are we to know that? What they're saying is, "This section says they can't discriminate," and it's supposed to make me feel better as a tenant. How are we to know how that landlord is going to use that information? Many of you are saying, "We don't trust that."

The point I make and the point some of you make, I'm assuming, is that if they're allowed to use income information, they have no more fear. No one is going to say to the tenant, "I'm allowed to use this information, and by the way, I'm not going to let you in because you're earning so much or you're on welfare," and so on. The point I make is, it doesn't give me any assurances. Do you see it somewhat the way I see it, or is there something else we're missing?

Mr Best: No. If you're not going to use that information to decide whether or not someone can afford to live in your apartment, then why do you need it in the first place? If you're going to use it to make that distinction, you're going to be discriminating against them because of their income.

Mr Marchese: But they're saying, "Because they're already doing it, we want to put it in the act to say it's okay and we also want to put in the act that you can't discriminate." They're making it appear like they're doing tenants a favour. That's the point. I'm not assured by it.

Mr Best: As I said before, I think that's a trite point by the government.

Mr Marchese: Thanks very much.

The Chair: Thank you, sir, for coming.

NATIONAL ANTI-POVERTY ORGANIZATION

The Chair: The next delegation is the National Anti-Poverty Organization, Barry Schmidl. Good afternoon.

Mr Barry Schmidl: Thank you for the opportunity to present the views of the National Anti-Poverty Organization to your committee. I've been informed there is a time limit of 20 minutes on my presentation, so I will attempt to be brief and to the point and allow time for Mr Gilchrist and other people to ask questions. I'm sorry; I've been sitting here for a few minutes.

Allow me to begin by introducing the organization I represent. The National Anti-Poverty Organization, NAPO for short, is a non-profit, non-partisan organization representing the 5.2 million people in this country currently living below the poverty line. Our mandate is to eradicate poverty in this country.

From its founding in 1971, NAPO has been commonly referred to as the voice of the poor because our 21-member board is made up of people who live or have lived in poverty at some time in their lives. Our membership is made up of both individuals and groups, including local and provincial anti-poverty groups and other organizations that provide direct or indirect services to the poor.

Today I am speaking both for the national organization, which I represent as secretary-treasurer, and particularly for our membership in northern Ontario, which I represent as the northern Ontario director.

Part of NAPO's mandate is to advocate for poor people. Decent, affordable housing and tenant protection programs aid poor people. This concern, and a concern for the future of Ontario's tenants in general, is what brings us before this committee.

Our concerns with Bill 96 are many and profound and I am not able to cover all of them in detail in the time allotted. Therefore, I would like to concentrate on three areas of major concern. I will deal with the area of affordability and supply of housing, the area of maintenance standards and the area of human and tenant rights.

First, affordability and supply of housing. The point of Bill 96 is this: Rent control will be dead, period. In everything but name, the proposed legislation will do away with any meaningful rent regulation. It is true that the rent control guideline and other niceties will still be there. However, there are enough holes in them that you could use them as a sieve. Let's look at a few.

Landlords can increase the rent by any amount they wish when a tenant moves. Landlords can harass tenants into leaving their units so that the rent can be raised between tenants. Although the proposed legislation makes this illegal, there are many forms of harassment that are difficult to prove, and it is unlikely that a government cutting the public service will add an enforcement unit of

any meaningful size. About 20% of tenants move within a given year, thus allowing big rent increases for a sizeable portion of the units in any one year.

All new units created are free from rent control forever. Operating cost and property tax increases will now be fully passed on to tenants, as well as capital expenditures, and tenants will not be able to challenge whether they were needed or not. In fact, tenants may be liable to pay for non-essential items such as marble lobbies in their rent increases.

Costs no longer borne by the landlord, such as possible utility decreases — and they do occasionally happen — will not have to be withdrawn from the rent. In other words, you have to keep paying the landlord for the higher utility rate even after they are no longer paying it.

All of these things mean that tenants will be going back to the old days of double-digit rent increases. This is not rent control.

NAPO supports a system of rent control that provides tenants with protection from unreasonable rent increases but allows landlords a fair return on their investment, with flexibility for some exceptional costs allowed.

We support a system that requires that good repair standards be maintained and provides landlords with the cash to meet these obligations.

We support a system that helps both landlords and tenants by allowing for a swift and fair appeals mechanism.

The proposed legislation does not meet any of these criteria and indeed is the antithesis of them.

The government says that Bill 96 will cause more affordable housing to be built. This will not happen. Even the minister and the Fair Rental Policy Organization, a landlord lobby group, have admitted as much at different times.

British Columbia had no rent legislation at all for years and did not see much in the way of private sector affordable housing built. Indeed, the problem is not rent control; the problem is that developers can't build new units for what the average tenant can afford to pay.

I'd like to talk next about landlords and rent control for a moment. It is truly a shame that a law is required because a few landlords are unscrupulous. The vast majority of landlords are decent people who care about their property and are not in business to exploit others. Unfortunately, society has to have laws to protect us from exploitation by others, whether it be false advertising, child labour or substandard living conditions. Any system of regulation will no doubt work hardships on some people. However, the fact is that existing landlords can make money, and generally do, even with the present rent control and other laws. In the March 10, 1996, Toronto Star, real estate broker J.J. Barnicke stated that people who buy an apartment building can expect a return of over 15% on their equity and that apartment buildings had been one of the most important real estate sales areas in the greater Toronto area. Obviously somebody is making money.

I'd like to turn to maintenance and standards. Bill 96 ensures that if there is no property standards bylaw in a municipality, the standards in the act will be used, and that tenants can apply directly to the minister for enforcement where there is no local standards bylaw to enforce.

Many municipalities barely enforce standards now. Provincial cuts to municipalities will not cause property standards enforcement to be prosecuted more vigorously, as probably fewer inspectors will be working for municipalities due to the cuts. In addition, I'm afraid I do not have a great deal of faith, given their track record, in the present government's determination to properly fund a branch of the Ministry of Housing to enforce property standards.

The standards set in the bill are not even minimum standards, and it does not address a vital aspect of maintenance at all. Bill 96 would eliminate the provision in the Rent Control Act that can prohibit landlords from receiving rent increases if they do not do required repairs.

All of the foregoing means that buildings are less likely to be well maintained.

In addition, the elimination of the protections under the Rental Housing Protection Act will mean it will be easier for a landlord to demolish or convert affordable units to condos or parking lots. Given the present government's stand on social assistance levels and housing legislation, there are likely to be growing numbers of former tenants sleeping in both condos and parking lots in the future.

Moving to tenant and human rights, an attack on tenant and human rights is our other major concern with Bill 96. Not only is the Harris government pushing tenants out of decent housing through effectively eliminating rent control and allowing buildings to deteriorate because of an effective lack of standards enforcement, but they are also proposing to eliminate many of the protections that tenants have.

Some of the rights eroded include increased landlord right to refuse a sublet and therefore force a rent increase between tenants; removing landlord-tenant matters from the courts and giving them to a government-appointed Ontario Rental Housing Tribunal, thus allowing for potential patronage appointments by government and judgement by potentially unqualified, unindependent and unsympathetic individuals; allowing evictions to be easier for the landlord and making it more difficult for tenants to fight an eviction — for example, by not requiring the reason for the eviction to be on the notice and by forcing tenants to prove that the landlord is evicting them only due to revenge for them exercising their rights, not as one reason.

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Our most serious concern in the area of human rights, however, is that which arises from sections 36 and 200 of the bill. This will allow a landlord to actively discriminate against poor tenants and those on social assistance. I could easily spend my entire time on this issue and I'm sure many people have. I know many people have because I've

been sitting here for a while listening to other people speak about that.

Keith Norton, chief commissioner of the Ontario Human Rights Commission and a former Conservative cabinet minister, told this committee in June that the bill would "condone tenant selection practices that involve the application of income criteria [that] will have devastating results for some of the most disadvantaged people among us."

NAPO must agree with him. Rolling back human rights legislation is not what this government was elected to do. Regardless of whatever else this government has a mandate to do and whether or not NAPO agrees with it, we find that specifically allowing one group of people to deny a necessity of life to another group of people and entrenching it in law is reprehensible in the extreme. If you are to change anything in this bill before it becomes law, change this.

In conclusion, the Harris government is rushing through the process of changing landlord-tenant law in this province without either caring or knowing what its impact is going to be on real people, not on the numbers on spreadsheets. With cuts to social assistance rates, co-op and non-profit housing and wholesale slashing and burning of the social, education and health systems in the province, the provincial government has launched not a war on poverty but a war on the poor.

The National Anti-Poverty Organization feels that much of the Tenant Protection Act is another volley in this war and is certainly a misuse of the English language. To our knowledge, no thorough study of what the human costs of this bill will be, including the death toll caused by increased homelessness, has been done. If it had been done, then we believe that it should have shown anyone with a shred of decency — and yes, I assume that most politicians do have that — that this proposed legislation and the rest of the war on the poor is sheer folly.

I would like to thank you once again for the opportunity to make this presentation to the committee and I look forward to your questions.

The Chair: Mr Schmidl, thank you very much. Mr Gerretsen has a question for you.

Mr Gerretsen: Thank you very much for your presentation. I'm sorry, I was out of the room for a few minutes, but I did have an opportunity to review the brief.

I was very much struck by the third page where you list about five or six things that this bill is doing to tenants right away. One of the greatest difficulties I have with this government is the fact that they don't even admit that they're doing some things. If they at least had some intellectual honesty and said, "Yes, we believe that, generally speaking, landlords should have more rights and tenants fewer rights and we believe that rent control has got to go," and things along those lines, I could say, "At least you're intellectually honest and you're admitting that your philosophy is totally different from past governments and there shouldn't be tenant protection," and that sort of thing. But this government is in total denial about that.

The mere title of the bill alone indicates that what they're really trying to hang on the people of Ontario is, "We are really doing more to protect tenants' rights."

You have clearly indicated in the five or six examples that you use on page 3 how tenants' rights are being destroyed and how rent control is being done away with in this province. There's no intellectual honesty there at all by this government. Would you, in summation, agree that from where you sit this bill hurts tenants and does the exact opposite for landlords?

Mr Schmidl: I think certainly if you read through the whole thing and research the whole thing in depth you'd probably pick out a couple of things that are good for tenants, no doubt. However, just about everything else is not good for tenants, or a few things don't matter one way or the other, I suppose. But this really amounts to gutting the protection that tenants have fought for for years, not just their rights but the rent control system and pretty much everything else that supports tenants. Certainly in no way could I characterize the bill as something that favours tenants in any way, and I would characterize the bill as something that favours landlords and allows unscrupulous landlords in some cases to take advantage of people who are not able to fight for themselves.

Mr Marchese: Thank you, Mr Schmidl. You raised a point about the tribunal that worries me as well. In the last hearings a year ago we heard from a number of legal people and many of them weren't convinced that this new system would necessarily work. I'm not convinced. They argue that 95% of all cases get dealt with expeditiously and it's only 5% of the cases that there were some problems with. My worry is that this new tribunal is going to be a new bureaucracy. They will be political appointments; we're assuming they're going to be neutral. It will create a new bureaucracy that they've got to deal with. I'm as worried as you are about that and I wanted to raise it with you.

You say landlords can increase the rent by any amount they wish when the tenant moves. That's the vacancy decontrol. Ms Beavis from Paralegal Associates said: "That's not true. It's just not going to happen. We're dreaming if we think that's going to happen." What do you think?

Mr Schmidl: If there's a 20% vacancy rate or something like that or a large vacancy rate, I can certainly see that would not happen, that landlords would not jack up the rent. That's quite true. Where exactly that would stop or where the curve would start going up, I couldn't say without research to back me up. But I find it really, really hard to believe that if we're in the situation that Sudbury was in a few years ago, where we had a below 1% vacancy rate, landlords would not jack up the rent by tremendous amounts because it is a commodity that everyone must have unless you're prepared to camp out all winter, and I don't think anybody is.

It's a commodity that people must have, and when it is in short supply, the price will go up. It's like gas on a Friday afternoon before a long weekend. The price goes

up because the demand is up. Unfortunately, if you're on a disability pension or something of that sort, just because your rent is about to go through the roof or there is nothing available that's affordable, your pension is not going to go up as well.

Mr Marchese: That's right. You mentioned another point about harassment. The government has got a measure there to protect you against harassment. As you know, the anti-harassment unit now is going to increase the fine by a pretty hefty amount. Don't you feel good about that?

Mr Schmidl: I feel wonderful about that. Let me tell you, if I were a landlord and I were stupid enough to be blatant about harassing a tenant, I think I would deserve everything I got. But, generally speaking, landlords are not stupid people. They are in business. I suppose there are stupid business people too and that's why some businesses fail. But if you want to harass someone, you're not stupid, you're not going to get caught because there are all sorts of things you can do to harass someone that will be difficult to prove as harassment.

Mr Preston: I'm glad to hear you say that landlords are businessmen because there's something that's been puzzling me today and yesterday. We're continuously hearing that landlords are not repairing their buildings, they're letting them run down, they're not doing what's supposed to be done, yet they can charge fantastic increases. Do you think those two things follow?

Mr Schmidl: They can't charge fantastic increases right now. They will when this law comes in.

Mr Preston: Fine. In the future they'll be able to. Do you really think that you can let your car run down and not do any repairs and get a half-decent trade-in value on it? It's the same corollary. Hey, you're going to let your building run down and yet you're going to be able to charge huge increases. I'm asking you, does that follow? Do those two things go together?

Mr Schmidl: I don't pretend that every landlord is going to do that. Certainly that is not the case. As I said, most landlords are decent people who want a fair return from their property. The reason you have legislation that deals with tenants' rights, with maintenance standards, with rent control, is that there are a small number of unscrupulous people who will take advantage of people. There are some landlords who, quite frankly, don't give a damn about the building; they just want the money out of it. They are the ones who will let their units go to hell in a handbasket and charge whatever they can possibly get for it.

Unfortunately, when you're able to charge whatever you want for something, the price will go up for everyone. Of course, people who can afford it will move into the well-maintained, good units and they will live there. People who can't afford something that someone who's making \$40,000 a year or \$30,000 a year can afford will end up living in something that is not just expensive but also not decent.

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Mr Wettlaufer: Mr Schmidl, I'd like to follow up this bit about allowing buildings to deteriorate. You blame this on the Harris government. I have to tell you I consider that absolute drivel. We have had rent control for 20 years, and what I have seen is buildings deteriorating over that 20-year period. Why have they deteriorated? It's because landlords, by and large, haven't received a decent return on their equity so that they could afford to maintain their buildings. We have had submissions presented to us to the effect that there is about \$10 billion in repairs needed to the apartment stock in Ontario because it is aging and deteriorating.

We talk about the effect on the poor, and I've very concerned about this. Would you believe that Massachusetts and Ontario are similar in their problems?

Mr Schmidl: I really don't know a lot about Massachusetts so I couldn't say yes or no.

Mr Wettlaufer: Massachusetts has had rent control for a long time and they lifted most of the rent controls. They said the effect on the poor was going to be monumental, was going to be severe.

I want to read very quickly —

The Chair: It had better be brief.

Mr Wettlaufer: It will be — from the New York Times on Saturday, June 13:

"Officials were surprised to find that the poor were not the main group benefiting from rent control. When the Massachusetts Legislature sought to ease the transition by offering short-term extensions for needier tenants, remarkably few households applied and even fewer qualified."

The vast majority of people who were benefiting were less likely to be in families with children. Half of them had higher-status, white-collar jobs and only 10% were elderly.

Mr Schmidl: And you want to know what I have to say about that?

Mr Wettlaufer: Sure.

Mr Schmidl: First, I don't pretend to know anything about the rent control system in Massachusetts, but I honestly don't have a hard time believing that if it was something you had to apply for to a government body of some sort that there were a large number of white-collar people applying, because they themselves would have the education and the background and the comfort level to actually deal with that themselves, as opposed to people who perhaps didn't have a high level of education, a high level of literacy, and certainly weren't real fans of dealing with government in a positive way. I don't know anything about that system, but that's what comes to mind when you read that to me.

The Chair: Thank you, Mr Schmidl. Unfortunately, your time has expired, but we appreciate your coming and giving us your thoughts.

MUSKOKA LEGAL CLINIC

The Chair: The next delegation is the Muskoka Legal Clinic, Jo-Anne Boulding. Good afternoon, Ms Boulding. You may proceed.

Ms Jo-Anne Boulding: Good afternoon. Thank you for the opportunity to speak.

Muskoka Legal Clinic is a community legal clinic serving the entire district of Muskoka. We have offices in both Huntsville and Bracebridge. We practise poverty law, which includes representing tenants in landlord and tenant disputes. We have been involved in all aspects of tenant matters: rent control for individuals as well as whole building reviews; mobile home parks; Ontario Court (General Division) applications and Small Claims Court. We have previously appeared before the standing committee on general government and provided written submissions on changes to the Residential Rent Regulation Act. We also appeared in front of the committee last August and provided written submissions on the government's paper New Directions.

In this paper we will restrict our comments to just a few of the changes proposed in Bill 96. We endorse the submissions of the Legal Clinics' Housing Issues Committee.

Housing is one of the most important decisions in our lives. Recent studies by health officials demonstrate that poor people in this province are spending a greater proportion of their income on housing. In order to feel safe and secure, tenants need to know that this new act will protect them from unlawful eviction and harassment by their landlord and ensure a quick, inexpensive method for requiring the landlord to perform all necessary repairs and maintenance.

Mobile home parks: If any of you are familiar with Muskoka, you know we have quite a few mobile home parks. Housing in this sector is quite different from other residential rental situations. Typically, the house or mobile home is owned by the tenant and the land is rented. As a result, if the tenant is evicted, she or he stands to lose a substantial investment as well as the place where they live. In a land-lease community, the house is fixed to the land. However, the vast majority of mobile homes are not truly mobile any longer. Most of them have additions built on to them that are not intended to be moved.

Residents of these communities are often seniors and low-income persons for whom the mobile home purchase was their only chance at home ownership. In Muskoka there are quite a few mobile home parks, and we have represented a number of residents in the parks.

Purchasers of mobile homes cannot obtain traditional mortgages from the bank and are forced to purchase chattel mortgages, which are not governed by terms as favourable as traditional mortgages. Mobile home owners typically pay much less in land rent than they do in mortgage payments. Rents are traditionally low, as the only thing these tenants are paying for with their rent are the hookup to sewage, water, electrical utilities,

maintenance of these, common areas and a fee for the use of the land, including taxes.

When these tenants are evicted, they usually lose their equity in their home. Typically, they cannot afford to pay their mortgage on top of the rent at a new place, and the home is seized. As a result, these tenants are even more vulnerable than other tenants. They will endure the most outrageous abuses from their landlords and the most serious instances of non-repair, just to ensure they are not evicted. Eviction, for these tenants, means ruin.

This unique vulnerability is why they were afforded the protection of the Rental Housing Protection Act. It was quite rightly perceived by the Legislature that tenants of mobile home parks and land-lease communities need extra protection from their landlords' desire to evict them, because more is at stake for these tenants. The RHPA protection has meant that landlords could not use conversion as an excuse to get rid of tenants without the municipality's approval. It has also meant that mobile home parks which would otherwise have been closed have continued. Tenants in these communities cannot afford the loss of the RHPA. It will mean disaster and financial ruin for hundreds of families. We ask the committee to amend Bill 96 so that protection from conversion is continued for mobile home parks and land-lease communities.

Under Bill 96, mobile home park and land-lease community landlords can pass through capital expenses for infrastructure work required by the government. The idea that these landlords should be allowed higher costs through allowances for capital expenditures is an outrage. Many of the reported cases involving mobile home parks and land-lease communities are about tenants trying to get basic services like water or repairs to sewage systems. See, for example, the cases involving Kingsway Villa in Sudbury, Lakehead Trailer Park in Peterborough, Allenview Trailer Park in Huntsville and Trenton Mobile Home Park in Murray township, to name a few. All these cases involved tenants struggling to get basic safe water to drink and a workable sewage system which did not put their health and safety at risk.

In rural Ontario there are a number of mobile home parks where the landlord has ignored public health and environmental regulations for years. They have refused to abide by section 128 of the Landlord and Tenant Act on the specious excuse that repairing a sewage system to code would simply cut into their profit margins too much. No landlord who has abused his or her tenants by allowing disrepair to occur over years of neglect should now be rewarded by being able to obtain higher rent increases than other landlords.

Infrastructure upgrades have not been done in a number of these communities for decades. For those decades, the landlords profited enormously. The Legislature should find a way to force these landlords to pour some of their profits into the upgrades on a systemic and timely basis and not wait for crises to happen, like burst sewage pipes and polluted water systems.

The only question for discussion posited in this section is, what cap should be placed on the special cost pass-through provisions for capital expenditures required by a public agency? There should be no difference in cap moneys for expenditures undertaken by a landlord who wishes to improve the property and those undertaken by a landlord because he is in breach of the law. Why would a Legislature wish to reward the lawbreaker and withhold reward from a progressive landlord who wishes to improve his property without being forced?

1530

The cap on capital expenditures should not be different in these communities, nor should it vary because of the reason for the expenditure. To do so would be to discriminate against some of the most vulnerable tenants in the province. And remember, in a mobile home, when you are trying to sell your property, you have to be able to tell the incoming buyer what the next land rent will be. If the landlord can jack the land rent up considerably, you may not be able to sell your mobile home because the purchaser can't afford to pay the land rent.

The right for a landlord to remove abandoned homes and their contents from the property after 60 days with a writ of possession is a new provision in this act. There is no need for such an extra provision. Currently, when a mobile home park landlord obtains a writ of possession pursuant to section 113 of the Landlord and Tenant Act, he or she has a right to enforce the writ within seven days, not 60. The writ of possession entitles the landlord to vacant possession of the land. Obviously, if the tenant is unable to move the mobile home, vacant possession of the land means the landlord can remove the trailer pursuant to a normal writ of possession.

Rent control: Bill 96 proposes to remove rent control from residential housing once the current tenant vacates the premises. All tenants lose if sitting tenants are the only ones covered by rent control. There is already a shortage of affordable housing in our area. This major change creates a powerful financial incentive for landlords to evict tenants. The inevitable result is the elimination of true security of tenure and affordable rental housing. With 25% of tenants moving each year, it will not take long for the majority of units in this province to not be covered. There does not appear to be any incentive for the landlord to do necessary repairs. The landlord does, however, have a powerful incentive to have tenants move out.

Most of the tenants that the clinic represents are vulnerable to unscrupulous landlords. I agree that not all landlords are unscrupulous, but unfortunately, the tenants who are in trouble tend to have the wrong kind of landlords. Our clients are single parents, elderly, disabled, and they're on fixed incomes. They're not in a position to freely bargain with their landlords over the price of an apartment. They don't have equal bargaining power with their landlords any more than the rest of us do with our banks, insurance company or grocery store. Their resources are often quite limited, and they are unable to engage in negotiations with the landlord. The recent

figures I've seen for the major urban centres of Ontario are less than 0.1% vacancy. We have that same problem in Muskoka. We just don't have homeless people; we give them bus tickets to Toronto because we don't have a single homeless shelter.

In the current rental market in Muskoka, tenants move for various reasons, but the principal ones we encounter are that they are unable to afford their current accommodations and/or the premises are in a state of disrepair. Already too much of poor people's income is allocated to housing, to the detriment of food, clothing and other necessities. If rents are decontrolled, tenants will have a greater need to hold on to the premises they have. Landlords will have a correspondingly increased desire to get them to move. This is a clear recipe for disaster that rent control with its modest yearly increases has been able to avert.

We ask this committee to amend the bill removing the sections on decontrol of rents of vacant units.

Maintenance is a must for tenants. The TPA now allows landlords who have outstanding work orders to collect rent increases. Currently, this is prohibited under the Rent Control Act and has been found to act as a significant incentive to get landlords to make ordered repairs.

Tenants also do not currently make applications to court or rent control every time there's a maintenance or a disrepair problem. They often live with it for a while; they negotiate with their landlords; they withhold rent. Now, with the new act giving a one-year time limitation, tenants will have to go to the tribunal each and every time to preserve their rights and to have the landlord live up to her obligations. Given the financial incentive because of rent control, this will certainly cause unscrupulous landlords to evict tenants or harass them into leaving rather than effect the necessary repairs. Some landlords have already demonstrated a willingness to harass tenants into vacating the premises through illegal means like cutting off the heat or water supply. Currently, we are involved in a case where we have now sought our 10th injunction against the landlord for shutting off electricity and gas. Injunctions can only be received for 10 days at a time and then they have to be renewed. It's been going on for two months and we haven't yet got a trial date.

So there are landlords who are already doing that, and there are parts of the act that could get them charged. It's almost impossible to get them charged. In six years at the clinic, I've managed to get one landlord charged under the provincial offences. He was given a \$50 fine. He moved all the tenant's belongings on to the front yard and locked her out in February while she was at bingo. The criminal court saw no reason to fine him, because it was in civil court. When we got to civil court, because he had been charged criminally, the civil judge put absolutely no fine against him at all. In the end, the landlord paid nothing for his clearly illegal behaviour.

Heat, water and power are not luxuries but necessities. The vast majority of rental properties in Muskoka have

utilities as a plus. They are not included in the rent, so they have never been covered by rent control and they are often quite costly. The loss of a vital service like heat and water can effectively mean a loss of housing. Many renters are not on town water and a loss of electricity means the loss of a water pump.

One of the most common problems we encounter as advocates for tenants is landlords who do not pay their utilities. The hydro and gas companies disconnect service. They're not interested that the tenant has paid for their utilities in the rent.

The vital services and maintenance standards part of this new act is to protect tenants from losing vital services like heat or electricity if landlords do not pay the bills. If municipalities make vital services bylaws, they can get involved to keep the services going, even though the landlord has not paid the bills. These sections are almost identical to the sections in the Municipal Act. Municipalities have virtually ignored the previous enabling legislation, and there's no reason to believe they will endorse them now.

The problem is that this act does not require municipalities to have vital services bylaws. Further, just in our area of property standards — many of our communities have passed property standards bylaws — you cannot get the bylaw officers to get involved in tenant matters. In fact, in one town they suggest you go to town council in order to get an order that the bylaw officer appear at the property. In six years I have never had a work order made out against a landlord, and it isn't for lack of trying. It is very difficult to get a work order made out against a landlord. Now, if the tenant is successful in getting a work order and it isn't obeyed, they have to go the tribunal. Doesn't that seem like a lot of steps for the person who has been injured by the lack of repair having to do all the work? In our community, as in the rest of the province, cutbacks have been made, so it's unlikely that any moneys or personnel will be allocated to vital services or property inspections. They're even cutting back how frequently roads are plowed. Powers without the resources —

The Chair: Ms Boulding, I regret to tell you that you have only two minutes left.

Ms Boulding: Powers without resources or incentive to enforce them are meaningless. We would like you to require that municipalities have property bylaw standards and vital services and enforcement mechanisms for both of them.

Many of my other topics people have spoken to today: security for tenants. We also support the position that either of the parties should be able to change the lock as long as they immediately provide a key to the other party. The tenant's security concerns are just as important as the landlord's.

We are very much against discrimination by allowing the credit rating to show the type of income. Yes, there have been cases that have gone to the Human Rights Commission, and some landlords got very inventive. Instead of following the type, they just came up with the

percentage of your income you were allowed to use on housing. As people on social assistance traditionally spend 60% of their income on housing, they could never rent the apartments because the cutoff was 35%. There are other ways that discrimination can be effected without them saying, "You're not getting the apartment because you're on welfare."

We also support the position that all eviction notices should have reasons. It would make the system work much simpler. Everybody would know right up front what the complaints are about their tenancy.

In summary, we ask this committee to review Bill 69 and retain rent control; protect the security and privacy issues of tenants; protect mobile home park residents; provide an inexpensive, quick remedy for tenants with disrepair problems; require municipalities to have appropriate property standards and vital services enforcement; protect tenants from discrimination and harassment; require that landlords provide reasons for all evictions. In other words, live up to the name of the act and protect tenants and retain affordable, good housing stock in this province.

The Chair: Ms Boulding, thank you very much for your presentation today. Unfortunately, we have no time for questions. I'm sure members would like to, but we're out of time. I thank you for coming; you've come a long way. Thank you very much.

The next presenters are the Sudbury Women's Shelter. Not here? We'll pass on them for a moment.

1540

PETERBOROUGH COMMUNITY LEGAL CENTRE

The Chair: The Peterborough Community Legal Centre, Martha Macfie. Good afternoon, Ms Macfie.

Ms Martha Macfie: Good afternoon. I'm Martha Macfie, and I'm here today on behalf of the Peterborough Community Legal Centre and tenants of Peterborough county. The Peterborough Community Legal Centre is one of 70 community legal clinics across the province. The centre provides legal services and public legal education to low-income residents of Peterborough county. Over 90% of the centre's clients are residential tenants.

When the government announced that it was holding public hearings on Bill 96, many tenants contacted the legal centre to find out more about the bill. They said they hoped Peterborough would be selected, as it was last year for the initial consultation, as one of the locations for hearings because they had concerns they wanted to raise with the committee. When the locations were finally announced, the tenants were upset that Peterborough had not been selected and angry that the government was conducting such a limited consultation.

Mr Chair, I would like to present a petition that has been signed by 246 tenants from the city of Peterborough who could not be here today. The petition asks this

government to keep existing rent laws, which provide true protection for tenants, in place. The legal centre and tenants of Peterborough county urge this government to scrap Bill 96. You'll find that petition attached to my written submission.

Why do we need tenant protection? Tenant protection laws have been enacted over the past 25 years by all three parties. These laws were enacted because there was overwhelming evidence that tenants needed government protection from landlords and developers. Tenant protection was deemed necessary because of rent gouging, arbitrary eviction, the loss of rental housing through conversion and persistent failure by landlords to provide safe and well-maintained buildings. Tenant laws have always been written as remedial legislation offering consumer protection to individuals and families in rental accommodation. If Bill 96 becomes law, this government will be remembered as the government that dismantled tenant protection laws in Ontario.

I'd like now to talk a little bit about tenants in Peterborough. A Statistics Canada report, based on 1991 census data, tells us important information about Peterborough tenants. Thirty-three per cent of city of Peterborough residents are tenants. While the city has an overall poverty rate of 17%, tenants as a group have a poverty rate of 37%; 70% of all city of Peterborough residents living below the poverty line are tenants; 40% of disabled residents in Peterborough are tenants, whereas only 31% of non-disabled residents are tenants. Members of visible minorities are also disproportionately represented in the tenant group: 38% of visible minorities are tenants as opposed to only 32% of those not a member of a visible minority. Of the aboriginal population, 66% are tenants and 71% of the aboriginal tenants live below the poverty line. Elderly women are three times more likely to be tenants than their male counterparts and three times more likely to be living below the poverty line. In Peterborough, 64% of female lone-parent families are tenants, and of this group 84% are living below the poverty line.

This government cannot claim that they aren't responsible for any of those figures. With the 22% slashing of the welfare rates in October 1995, this government has added to that burden. These are based on 1991 figures, so these figures would actually be increased directly as a result of this government's action in slashing benefits.

In summary, tenants of Peterborough are some of society's most vulnerable members.

Beyond what the StatsCan data tell us, the legal centre has developed its own data during the eight and a half years it has provided legal services to tenants in Peterborough and during the last two years that it has provided a landlord and tenant court duty counsel program for tenants. The centre is most frequently contacted by tenants, who are young people, often attending high school, Sir Sandford Fleming College and Trent University; low-income families trying to juggle their expenses

on incomes derived from social assistance, low-paying jobs and child support, or a combination of all three; native tenants; battered women and their families who are desperately trying to establish new residences in the community; mentally and physically disabled tenants, many in care homes and in rooming-houses; seniors, many in care homes — Peterborough does happen to have a particularly high senior population; uneducated and illiterate tenants, and of course a lot of the groups I've already previously mentioned are people who have difficulty reading and writing; female-led single-parent families; and trailer park tenants.

Tenants contact the legal centre when they are experiencing legal problems with their tenancy. The two problems we see most frequently are when the landlord is trying to evict the tenant and when the tenant feels that the landlord is failing to properly repair and maintain the rental unit.

While there are many reasons for eviction — including damage to the premises; conversion to a use other than rental-residential; demolition or repair; and occupation by the landlord — non-payment of rent is the reason given for eviction in approximately 96% of the centre's cases. Furthermore, approximately 90% of the non-payment-of-rent evictions are economic evictions; in other words, evictions caused by the fact that the tenant has insufficient income to afford the rent being charged.

A December 1996 report by the Peterborough Social Planning Council, which was based on a survey of low-income residents in the city of Peterborough, concluded that, on average, low-income households spend 59% of their monthly income on shelter costs, that households receiving social assistance spend 63% of their income on shelter costs and that sole-support parent households spend 61% of their income on shelter costs.

Therefore, the high rate of economic evictions can be traced to a number of factors, which include: the high level of poverty experienced by Peterborough tenants; the fact that a large number of Peterborough tenants are in receipt of social assistance and that social assistance rates were slashed by this government in October 1995 by 22%; and the inadequate supply of affordable housing in Peterborough.

As I have already indicated, the second-most-common reason that tenants contact the legal centre is that the landlord has failed to repair or maintain the premises. This is a particularly serious problem in Peterborough because much of the rental housing stock is old, single-family homes or town houses that have been converted to rental units.

Good-quality affordable housing for low-income residents in Peterborough is in short supply, and this has left room for unscrupulous slum landlords to take advantage of a captive tenant population in desperate need of shelter. Further exacerbating the situation, the city of Peterborough has a dismal record of enforcing its own property standards, and we've already heard the previous speaker speaking a bit about that.

Now that we know who Peterborough tenants are and we know what their main legal problems are, let's look at Bill 96 and determine whether it protects or rejects tenants.

Remember, the biggest problem Peterborough tenants face is that they cannot afford the rents their landlord charges. However, with Bill 96 rents will increase. This is because Bill 96 gets rid of rent controls by allowing unlimited rent increases whenever a rental unit becomes vacant. With normal turnover rates of 10% to 20% or, as the previous speaker indicated, 25%, it will not take long for rent controls to be gone entirely.

Although rent control will remain in place for tenants while they remain in their unit, this is small comfort if the rent charged when they took over the unit was excessive in the first place. Those tenants living in decent, affordable rental units at the time that Bill 96 becomes law will be sitting targets for eviction by landlords who want to increase the rent. By the way, not many of my clients are living in decent, affordable rental units right now, so they're obviously not going to be living in decent, affordable rental units if this bill becomes law.

Those tenants who are able to remain in their unit may have their rent increased beyond the guideline amount in any event. This is because landlords may apply to the rent tribunal for an increase beyond the guideline if the cost of utilities goes up. However, ironically enough, or possibly predictably enough, the government hasn't put in a provision for tenants to apply for a decrease if those utility costs go down.

As well, the bill permits landlords and tenants to "agree" to a rent increase that is 4% above guideline without having that increase reviewed by the rent tribunal. This provision in the bill encourages landlords to coerce tenants to agree, and I say "agree" because obviously it isn't going to be a true consent to this kind of rent increase.

1550

Bill 96 eliminates rent controls at the same time the government has stopped building non-profit housing and is seeking to divest itself of responsibility for public housing and at the same time the government has reduced income supports for the most vulnerable and needy members of our community. We conclude that Bill 96 will only increase the incidence of economic eviction.

Shelter is a necessity, but is it a right? The Peterborough Community Legal Centre and tenants in Peterborough say that tenants must have a right to stay in their homes, unless there is good cause for eviction. Tenants should not be evicted without having a chance to defend against the eviction.

Sadly, it is not clear that this government considers shelter to be a necessity. The procedures for eviction that are set out in Bill 96 are designed to facilitate a quick and dirty eviction process. On the other hand, there are very few effective mechanisms by which a tenant can protect himself or herself against eviction.

Under Bill 96, landlords are no longer required to give particulars for the eviction on the notice of termination. This will make it impossible for tenants to defend themselves against eviction. While the bill requires tenants to file their disputes in writing, it does not give sufficient time to do so.

The bill states that service will be deemed to have occurred five days after it is mailed. The five-day deemed service provision means that a tenant will likely receive a notice several days after he or she is "deemed" to have received it. As the tenant must file a dispute within five days of receiving it, and as the tenant will have actually received the notice several days after he or she is deemed to have received it, the tenant will be left with very little time, if any, in which to file a dispute.

Many tenants in the city and county of Peterborough have limited reading and writing skills. These tenants will need help completing their dispute, and this will further delay the filing of their dispute. Under Bill 96, tenants will be denied the opportunity to defend against their landlord's eviction.

In addition to the elimination of rent controls on vacant units, landlords have a second incentive for evicting tenants now under Bill 96. A landlord simply has to conclude that a tenant has vacated, after receiving either an eviction notice or eviction order, and he can — and this is lifted directly from the bill — "sell, retain for the landlord's own use or otherwise dispose of" the tenant's property. Furthermore, a landlord is not liable to any person for selling, retaining or disposing of the tenant's property.

Today's Toronto Star carries an article that sets out Housing Minister Al Leach's views on this issue. The article states, "Leach strongly supported one aspect of the new law which would allow landlords to sell furniture abandoned by tenants who have moved out or been evicted." This is quoting directly from Mr Leach: "It happens quite often, particularly in low-rent areas where tenants are quite transient," Leach said yesterday. "Their furnishings are usually quite modest."

By Mr Leach's standards, low-income tenants' furnishings are "quite modest." Why does that not surprise us? But the Peterborough Community Legal Centre and Peterborough tenants have news for Mr Leach. A single mother and her child living on an income of \$950 a month cannot afford to replace furniture, appliances, linens, kitchenware and clothes that have been taken by their landlord. And, Mr Leach, low-income people too have belongings of great sentimental value that they don't want their landlords to take.

The Peterborough Community Legal Centre recently represented a tenant whose landlord had wrongly concluded that she had vacated her unit. The landlord kept her furniture and appliances and took the rest of her belongings, including photographs of a dead child, to the dump. Where under current law our client had remedies available to her, such as charging the landlord with illegal distraint and asking a court to grant an injunction and

damages, she would have no remedy under Bill 96. Her landlord would act with impunity.

With the elimination of rent controls, security of tenure will be gone. Landlords have a financial incentive, either to get rid of tenants who are living in rent-controlled apartments or illegally increase their rents. Tenants in small communities, such as the city of Peterborough and in rural communities in Peterborough county, will be a captive tenant population with extremely limited choice of rental accommodation. These tenants will be particularly susceptible to eviction and to illegal rents.

The anti-harassment measures in Bill 96 are a clear acknowledgement by this government that the bill creates an incentive for harassment by landlords. We say, why give landlords the incentive to harass tenants in the first place?

As noted above, there is a high proportion of seniors residing in Peterborough, and a large number of those seniors live in care homes in the community. Bill 96 will give care homeowners the right to evict these seniors if a tenant's health changes and the landlord doesn't want to rent to them any longer. This means that seniors and also people with disabilities who live in care homes in Peterborough will have fewer rights than people living in other accommodation.

As discussed above, the quality of rental housing is an important issue for tenants in Peterborough county. So let's look at Bill 96 and see if it ensures that tenants' homes will be adequately maintained and safe.

In fact, Bill 96 eliminates many of the mechanisms which ensure that the rental housing stock is properly maintained. For tenants in Peterborough this is a very serious problem, given that much of the rental housing stock in Peterborough is quite old. Under current law, landlords who violate municipal work orders are not allowed to raise their rents until they fix up their buildings. These orders prohibiting rent increases, or OPRIs, are automatic and do not require initiative by a tenant. As well, under the current system all tenants affected by the disrepair will see their rent frozen, which places further incentive on landlords to quickly make the repairs.

Under Bill 96, only those tenants who apply for a rent reduction will benefit should the rent tribunal order such a reduction. Furthermore, despite stating that maintaining and improving the quality of Ontario's rental housing stock is important, the government has failed in Bill 96 to establish a minimum maintenance standard for the province. The maintenance standard that has been established applies only to areas with no property standards bylaw. This means that a municipality may enact a token property standards bylaw and thus circumvent a provincial standard.

In rural areas like Peterborough, enforcement of property standards has always been problematical, in large part due to lack of municipal resources. Bill 96 establishes a system where enforcement of municipal property standards will be crucial to tenants seeking

redress for repair and maintenance problems. However, at the same time that the government is requiring increased services from municipalities, it has slashed funding to and downloaded additional services on municipalities.

We conclude that the government has yet again rejected tenants. Tenants in Peterborough will have no option but to live in unrepared, dangerous rental units.

The government says that eliminating rent controls will encourage rental housing construction. Developers and housing experts say that the government has it wrong. Under current legislation, new rental housing is exempt for a period of time from rent controls, but despite this exemption new units have not been built.

Exacerbating the problem, the government has cancelled many of its housing programs and funding for new construction of non-profit housing. As well, it plans to download responsibility for public housing to the municipalities.

In my submission I talk briefly about trailer parks and land-lease communities. The previous speaker referred to the Lakehead Trailer Park. I have personal experience with that particular park. There has been a long, 20-year history of repair problems in that community county because the tenants there are under long-term leases. There have been a number of successive owners in that trailer park, and as it stands right now, it looks like things are pretty good, but the concern of course is, now we're looking at Bill 96 and what the tenants of Lakehead Trailer Park are worried about is that the landlord is going to convert that trailer park. A lot of the tenants in that park are seniors who put their life savings into their trailer, and when the landlord converts, a number of owners of trailer parks across this province are going to convert under Bill 96, there will be no place for them to park their trailer and they will have lost their life savings. Once again, Bill 96 rejects tenants.

We conclude that the Tenant Protection Act would be more aptly named the Tenant Rejection Act. The Peterborough Community Legal Centre and tenants in Peterborough county urge this government to scrap the Tenant Rejection Act. Thank you.

The Chair: Ms Macfie, you've come a long way to make your presentation and we thank you for coming. Unfortunately, we are out of time, but thank you for coming and making your presentation, and thank you for speaking ahead of schedule. I appreciate that.

1600

SUDBURY WOMEN'S CENTRE

The Chair: The next delegation is the Sudbury Women's Centre. The speaker is Kathleen Myre. I'll let you indicate who is with you.

Ms Kathleen Myre: My name is Kathleen Myre. This is Katherine Beddows. This is Marlene Johnson. We are here representing the Sudbury Women's Centre.

The Sudbury Women's Centre is a non-profit organisation dedicated to improving the status of women in northeastern Ontario. The mission of the women's centre is to provide a safe entry point for women in difficulty to access information via our resource library, public education and outreach programs; to offer referrals to the local community and social services network; and to give support in a trusting, non-threatening environment which reflects and respects the woman's expressed needs.

The mandate of the centre is to provide services and support to all women. Over the past 15 years the Sudbury Women's Centre has offered special projects and programs targeting such women's communities as lesbians, youth, physically disabled, rural, poor, immigrant, visible minority and first nations' women. The centre aims to achieve this goal through public education, advocacy and political action.

But the fact is that women lack equality in the workplace, in the home and in society as a whole. Women are paid less than men; women are stereotyped as dependent on others for survival; women are harassed in the workplace; women are violated sexually, physically, psychologically and emotionally; women's reproductive and employment choices are challenged; and most women don't know their rights, don't know where to get help and often are victims of a judicial system run by those who don't know how to assess women's needs.

We recognize that women in our society are oppressed by the very way in which society is currently organized; therefore, we are working towards changing the structures, systems, processes and people who oppress. We are committed to continuing to work together to empower all women in personal life, in the community and in society as a whole.

Bill 96 undermines the protection in the Ontario Human Rights Code for single mothers, people with disabilities and people relying on social assistance. Section 200 of the bill would amend the Ontario Human Rights Code to allow landlords to refuse to rent to women on social assistance and other disadvantaged groups based on income information.

The Sudbury Women's Centre is greatly concerned how the removal of rent controls on re-rented apartments will affect women, specifically, unattached women, young mothers, single mothers, women leaving shelters, women on social assistance and those women relying on benefits to survive. Women already face widespread discrimination in accessing affordable housing, and with the removal of rent control women will be faced with differential pricing, paying significantly more.

In 1993 a United Nations committee reported that it had received evidence of widespread discrimination in housing in Canada against social assistance recipients and low-income households. It recommended improved human rights protection and enforcement. Bill 96 is explicitly in contempt of international human rights commitments made by Ontario. Bill 96 also violates the Canadian Charter of Rights and Freedoms and the Freedom of Information and

Protection of Privacy Act by discriminating against the poor.

By authorizing the use of arbitrary affordability rules of thumb such as income criteria, the government of Ontario would effectively be authorizing discrimination against low-income households. It would be doing this even though there is no evidence that using such criteria increases landlords' chances of selecting good tenants. By including income information, Bill 96 will allow landlords to exclude whole classes of people and entire groups currently protected under the Human Rights Code on the basis of their income.

This bill will greatly affect women who are doubly disadvantaged: Women of colour, women with disabilities, immigrant women and first nations' women will be discriminated against because of their appearance, while young women, poor women, single mothers and elderly women will be discriminated against because of their income. Women lack equality in the workplace, in the home and in society, and it is women who will be greatly affected by Bill 96.

Bill 96 will allow a landlord to discriminate against an individual just because they are on government assistance. This illegal practice of discrimination already occurs in excess. The chief commissioner of the Human Rights Commission recently discussed that discrimination against social assistance recipients and the poor is one of the most pressing human rights issues of the decade.

Bill 96 will allow landlords a free-for-all in legally discriminating against individuals based on their income, and it will be women who will face the brunt of the discrimination.

Women currently make up slightly more than half of all people living in Canada. The percentage of women being sole providers for themselves and their families is ever-increasing. In 1991, over 80% of all single-parent families were headed by women, a figure that has remained relatively constant since the 1960s. More and more women are having to provide for their families on their own.

Society itself does not provide women with the opportunities of making the same incomes as men. Women make 72 cents on the dollar as compared to men. It is proven that working women make less money than men and it is also shown that women are discriminated against. On the average, women live longer than men and therefore on less money.

The vast majority of all part-time jobs are held by women. In 1994, 69% of all part-time workers in Canada were female, a figure that has changed little over the past two decades. In 1994, 1.6 million women, 26% of all those with jobs, worked part-time, compared with just 9% of employed men.

Even when employed, women are still largely responsible for looking after their homes and families. In 1992, employed women with a spouse and at least one child under the age of five spent 5.3 hours a day on household activities, including domestic work, primary

child care and shopping. This is about two hours more per day than their male counterparts spent on unpaid household work.

Women constitute a particularly large share of the senior population. In 1991, women represented 58% of all people aged 65 and over in Canada. Is it fair that a landlord could refuse to rent to this individual because she is in receipt of social assistance? Perhaps this woman has become a widow and has no choice but to go on social assistance because her husband did not have a great amount of life insurance or pension and therefore social assistance is her only means of survival.

Divorce is another issue that women face. Within Ontario there were 30,718 divorces in 1994.

In 1993, 3% of all women who were married or living common-law reported that they had experienced wife assault at least once during the 12 months prior to the 1993 violence-against-women survey. As well, 6% of women in Canada had been sexually assaulted and 3% had been physically assaulted that year by dates, boyfriends, other known men or strangers.

Unfortunately there is still abuse in today's society. Many women are in need of temporary shelter, yet once they have built up some self-esteem, they are still in need of housing. This bill allows landlords the right to decline rental because of their marital status or prior credit history. In addition, single-parent status or social assistance could also be determining factors. Not only has she received abuse from her partner, but now she'll be discriminated against by society.

In 1993, there were 208 female homicide victims, representing about one third of all homicide victims that year. However, women made up almost two thirds — 59% — of all homicide victims killed in a domestic relationship.

There are many homeless people in today's society. Bill 96 could have great repercussions, deeming many more people to become homeless. Whose problem will this be now? It will not be the fault of the individuals who try to seek appropriate housing but will be the fault of the government that has allowed this bill to pass. Because of Bill 96, individuals will be discriminated against by landlords, which in effect will result in an increase in homeless people.

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Bill 96 will not only discriminate against women who are receiving social assistance but will also discriminate against their children. Figures presented from Statistics Canada in 1993 showed that the highest number of people receiving assistance was children of single parents, amounting to 1,108,600. Single parents represent the third-highest group, at 441,500 receiving social assistance, and single people are the second-highest group, being 924,500.

Looking at the figures presented, does the government feel comfortable and willing to implement Bill 96, knowing that not only will this bill be discriminating against women but also the children of society? This bill,

if passed, will only make it even more difficult for women to access the necessities of life, which is their human right.

If this is an equal opportunity society, how can Bill 96 go against our rights, as in the Human Rights Code, chapter 53, and especially section 200? It is unjust and irresponsible for the government of Ontario to introduce amendments to the Human Rights Code which would increase the difficulties disadvantaged groups face when trying to find good affordable housing. The government of Ontario must strive to ensure that low-income Ontarians have access to what little affordable rental housing is available. Section 200 of Bill 96 works directly against this.

The Sudbury Women's Centre recommends that income information be deleted from sections 36 and 200 of Bill 96. The Sudbury Women's Centre also recommends that section 200 be amended to clarify that absence or inaccessibility of credit references, credit checks or landlord references will not be used to disadvantage prospective tenants.

A perfect world would ensure equality, justice and freedom for all people. On behalf of the Sudbury Women's Centre, we hope you take our recommendations into account regarding Bill 96.

Mr Marchese: I want to thank all three of you for coming and congratulate you on the work you do. It's not an easy job dealing with the kinds of problems you have to deal with on a daily basis. I think a lot of the times we're sheltered from those problems, I suspect, in ways that are sometimes not helpful to the work you do. But you raise this section 200, which we have discussed. I'm not sure you were here earlier to listen to some —

Ms Myre: No, we weren't.

Mr Marchese: What this government is saying with this section is that landlords now have been asking for income information, and they say that's not illegal. What is illegal, probably, is how you use that information. In other words, you can't discriminate based on that information. But how do we know whether the landlord is discriminating based on how he uses that information? My assumption is that they ask for it in order to use it. They're not going to tell you, but surely in their own mind, if they're asking, they're asking for a purpose. My sense is they are probably using it to discriminate. Is that your sense?

Ms Myre: Yes.

Mr Marchese: This section 200 says they can use the income information but now, with this section, they also say, "But you can't discriminate." The point is that it's supposed to make you feel better that it's in the law that it says you can't use that information to discriminate. Do you now feel better with this section?

Ms Katherine Beddows: Why do they need the information in the first place?

Mr Marchese: These are the questions we ask. If they can use a credit check and credit references, we think it's sufficient. They don't think it's sufficient, because

sometimes, they say, you need a little more, so now they've added income information as well.

Ms Myre: Landlords, with Bill 96, can choose not to rent to a person on social assistance because they know they can find somebody else who's not on social assistance to rent it. They find out that information by asking for your income references. I'm not sure what your question is.

Mr Marchese: You'll get to them because they're going to ask you now.

Ms Marlene Johnson: I was in the property management field for many years and I've been in the credit racket for over 40 years. When we ask information on income, it's to be used. We cannot guarantee any individual's actions, and God only knows what goes on in their heads when they make a decision. I have enough trouble discerning my own decisions, let alone anyone else's. It's an impossibility for the government to know what in hell the landlord's going to do if they don't put the checks and balance in the bill itself. It's got to be there for the people who are disadvantaged, the young children who will have no place to live. It's got to be in place.

When I was in the private industry of property management of a 104-unit block many years ago — that was a big place — I had to ask information like this, and it was used to discern whether the person could afford the rent. Anything further than that I won't get into, because I did not make final decisions on it; I simply handled that end of it. But I'm telling you, it's asked for a reason and decisions are made based on it. If there are no safeguards from the government we voted in, who the hell's going to do it?

Mrs Munro: I'd like to thank you for coming and also for bringing to us this particular perspective and the research you provided for us today.

I want to go back to this issue because it seems to be the pivotal point of your concern. I'm sorry, I didn't write down the name of the other presenter with you. I want to go back to the issues you raised as someone who made those decisions. Clearly, this is all about trying to create some kind of balance. The person who has to make that rental decision — at the very end of your presentation, I was unclear about whether you supported the idea of the use of credit checks and tenant references. Could you just clarify your last comments? Were you supporting those ideas for a way of application?

Ms Myre: No, I don't believe we support that. Not if it can be used against women who need affordable housing.

Mrs Munro: What would you suggest as an appropriate way by which a landlord makes a decision?

Ms Myre: I think each landlord should use their own common sense, but if they have a law that can back them up it will make things more difficult. There's no set way to make it perfect for everyone, but making laws so landlords can discriminate in order to make more money doesn't seem right.

Mrs Munro: So you don't accept the notion that it's appropriate to ask for a credit check, for instance, or a tenant history or anything like that?

Ms Myre: I'm not sure how to answer that. In some cases yes, in some cases no. That's why set rules —

Mrs Munro: But you suggested that you want this individual to demonstrate common sense. I think we have to provide a menu of options, of what it is that you would deem appropriate for him to ask. For instance, there are people, particularly some of the women you talk about and advocate for, who don't have a credit rating and who don't have a tenant history; they come to the situation without either of those things. Does that mean they automatically get refused rent, or is there an appropriate menu of options that should be available?

Ms Myre: There should always be more options made available.

Ms Johnson: I think that's your job, not mine. You are the people who want to put the bill in place; so you put the options there. That's why you're consulting with people like us. I'm here, by the way, flying in on this one, right from left field very quickly this afternoon. I realized coming here that perhaps you wanted some things suggested. I would think common sense would dictate what should be done, and it shouldn't be carte blanche for either the landlords or the tenants, I agree, because I've seen many instances where there is abuse of the public dollar.

I appeared in front of the previous government on abuse of health care dollars, yet I don't agree with this government whatsoever. I'm apolitical. I don't believe in any of them; therefore I'm safe, because I don't believe in anything any of them say.

1620

However, you should have certain criteria with which you judge these things, and when you're going to make a bill or you're going to do any of these things, have the options there. With your political parties and with your opposition and everything else, you debate them out. To ask us to have the options — we don't know. We deal with the crises on a daily basis, with someone coming in whose lip is split, with a black eye and maybe even a broken arm. I don't know anything political; I don't want to know.

But I do know people and we deal with people, people who are broken in spirit, people who are broken in their hearts, people whose minds are broken, whose pocketbooks are broken, whose banks are broken and their backs are broken. We need the government to have safeguards. We don't want our safety nets taken away. We are not Americans, we're Canadians, and we're known around the world for it.

Mr Gerretsen: Thank you very much for your comments — you're very plain-speaking, and that's what we really need to hear at this committee level — and also for your overall presentation on women's issues in general.

No matter how you cut the cake, as you stated in your earlier intervention, the income information being requested is there for a purpose. How it's going to be used later on, or whether it's against or not against human rights, nobody really knows. Let's put that right out front: Nobody can guarantee that, no matter how many sections you put that into.

I have a general question, particularly since you make such an excellent presentation on women's issues in general and where women fit into the total economic life and social life of the country etc. If you could make one change to the current Landlord and Tenant Act or residential tenancy act, what would that be? What do you see as the biggest thing women face over and over again in trying to get accommodation, and if the government could do something about that, what would that be? Do you have any one or two items like that?

Ms Beddows: If a landlord wants to do a reference check, fine; you can ask a tenant for a prior history of where they've rented. It's up to the individual to give it. The landlord can go that way. But as for a credit history, the landlord doesn't need to know that. I would like to see that that is not implemented. That is one of our big arguments, not to put that in. That doesn't need to be in there. They don't need to know the credit history. They'll find out how the tenant is at paying their rent by speaking to the prior landlords, and that should be good enough.

The Chair: Thank you, ladies, for coming this afternoon.

ZULICH ENTERPRISES

The Chair: The final presentation this afternoon is Zulich Enterprises Ltd, Peter Faggioni and Paul Zulich. Close? I'm having an awful time this afternoon. I can't pronounce anybody's name right.

Mr Marchese: When you have to get up at 5 o'clock in the morning, it affects your reading of names.

The Chair: That's true. Don't rub it in.

Mr Paul Zulich: This is Peter Faggioni and I'm Paul Zulich.

The Chair: I wasn't even close. Thank you for coming.

Mr Peter Faggioni: Close enough.

Thank you for the opportunity to address the committee. My name again is Peter Faggioni and with me is Paul Zulich. We are managers with Zulich Enterprises Ltd here in Sudbury.

I would like to start out by saying that Bill 96 overall is a positive change and a step in the right direction. However, Bill 96 is still rent control, although it is less restrictive than the current legislation. In terms of the concerns we have regarding specifics of Bill 96, the Fair Rental Policy Organization's statement to you on June 19, 1997, addresses our concerns and won't be repeated here.

At a time where governments are downsizing and moving towards being more efficient in the private sector, we feel that in the rent control area we are maintaining the

status quo. We urge the committee to move towards a reduction in control legislation and government red tape.

Mr Zulich: As far as maintaining the status quo is concerned, we have 1,000 units here in Sudbury, and we haven't increased the rents for three years. Market factors really control what we do and how we do it. In the big scope, deregulation is the way we want to go. It's the market forces that dictate what rents should be.

The Chair: Short and concise. Any questions from the government members?

Mr Gilchrist: Thank you both for coming forward today. If I can just follow up on your last comment, Mr Zulich, we agree that in a perfect world market forces would be a determinant. Comments have been made by people earlier this morning that they just don't believe that if the situation turned around in Sudbury and the vacancy rate went from being the highest in Ontario to, let's say, the lowest, the marketplace would respond.

I invite your personal comment here, not to put you on the spot overtly. But if people have got into the landlording business as a business, it would stand to reason that if they had the resources, they would want to grow that business. It's no different when you buy a car dealership; you would want to become a big car dealership. If you buy a hardware store, you want to grow that business. I don't think any reasonable person would suggest that landlords get into it to make it smaller; they would get into it to be as good or bigger. If the ability was there, in a free market system, to build and deliver more apartment buildings when the vacancy rate went down, would your company do that?

Mr Zulich: As a matter of fact, we have. About five years ago now, when the market was tight in Sudbury, we developed quite a few properties, as well as a 100-unit apartment building in the south end of Sudbury. As we were in the construction phase, vacancies started to come into play. We had to absorb that. That would spur new growth. If the vacancy rate was zero, there would be upward pressure on the rents, and landlords and developers would be motivated towards developing new product. We have done so in the past, and we will continue to do so once the market tightens up.

Mr Gilchrist: Would it be safe to say that here in Sudbury, as in other communities that have a high vacancy rate and have some economic problems like that, there's a correlation with the root cause of poverty, namely, high unemployment? Has it been your experience — I appreciate your giving that anecdote about the turnaround — that there has been a correlation between the downturn in businesses here in Sudbury, therefore laying off some of the workforce, and a decline in the housing market?

Mr Zulich: I'm not a demographic expert, but there's no question that it would stand to reason that the vacancy rate is partly attributable to the loss of jobs, the market itself in Sudbury, and the downsizing in government, no question.

Mr Gilchrist: Will the creation of over 1,000 full-time jobs a day in the last five months in this province, that

many more people in Ontario going from having, in many cases, no income or maybe government assistance to having a good, full-time job, have an impact on people's ability to pay market rent?

Mr Zulich: I would think so.

Mr Gilchrist: For example, in Nepean in the last month Northern Telecom announced 5,000 more jobs and Newbridge, another computer peripheral company, announced 4,100 jobs. We had to go back to 1962 to find the last time somebody announced 5,000 jobs in one day in Ontario. Would it be likely, on the assumption that 9,100 more people show up and claim those jobs, that somebody in Nepean is now going to be building more apartments and more single-family homes?

Mr Zulich: Of course. It stands to reason. Coming into Sudbury we have the College Boreal, which is just completed; it's going to be opening up in the fall. That has tightened the market substantially in that sector of our community. We have apartment buildings in that area where we had substantial vacancies, but with the influx of so many people and so many students it has tightened the market in that respect. The property values in that area, as a matter of fact, have risen because of the possibility of renting to the students and having a stable market there for landlords to rent to. No question that it would help.

Mr Faggioni: If an employer or agencies decide to hire 9,000 people or 5,000 people, we would also want to calculate the existing rental stock available prior to one undertaking other developments.

Mr Gilchrist: You'd apply reasonable business practices, no different from any other business.

Mr Faggioni: Absolutely.

1630

Mr Gerretsen: How many new units did you actually build five years ago, that you just talked about?

Mr Faggioni: One hundred and seven.

Mr Gerretsen: At that time we had the rental law in operation that was passed by the NDP. Did that have any effect on how many units you were going to build?

Mr Zulich: We performed our own feasibility study and found a niche in the south end market for high-end apartments. With the legislation in place at that time, rent controls were not applied to brand-new buildings, so we were able to make a spectacular building and charge the rent it merited.

Mr Gerretsen: Rent control really hasn't been applied to new buildings since about 1976.

Interjection.

Mr Gerretsen: Well, 1976 or whatever it was, but it's been a long time, anyway. We keep hearing from the government that the reason new rental accommodation isn't coming onstream is because of the rent control legislation that's in effect from time to time, yet the new buildings are free of rent control. I don't want you to get political, because you've been very forthright in your statements, but would you agree with me that since new buildings are not subject to rent control and haven't been for over 20 years, there's absolutely no relationship

between the new buildings you build and the rent control legislation in effect at any one time?

Mr Zulich: I'm not sure what you're asking. You'll have to repeat that for me.

Interjection.

Mr Gerretsen: Excuse me. You had your time the whole day. Would you let somebody else have a minute?

Since new buildings are not subject to rent control, would you agree with me that there is no relationship between the existing rent control legislation and the building of new units?

Mr Zulich: No question that there is a correlation, because once you rent an apartment, no matter what the rent is, it falls under rent control.

Mr Gilchrist: Oops, forgot that one, didn't you, John?

The Chair: Mr Gerretsen is right, Mr Gilchrist. You shouldn't be interrupting.

Mr Gilchrist: You're right, Chair, absolutely.

Mr Zulich: Once the rent is stated and you accept the tenants, the unit falls under rent control and is controlled from that point forward.

Mr Gerretsen: So if you get rid of rent control, you get higher rents? That's what you want. You want to get higher rents.

Mr Zulich: I don't understand again what you're getting at.

Mr Faggioni: Why would we want higher rents?

Mr Gerretsen: You basically want to get rid of rent control. That was your premise: Get rid of rent control and you'd be a lot happier.

Mr Zulich: Absolutely.

Mr Gerretsen: The reason is that if you get rid of rent control, you get higher rents.

Mr Zulich: We would have market conditions dictate what the rents are.

Mr Gerretsen: And they'd be higher than what they are now.

Mr Zulich: Rent control now gives us a legal maximum. We're not even close to that, because the market dictates exactly what our rents should be. With that in mind, when there is no vacancy, new property will be developed and there will be more units on the market.

Mr Faggioni: Why would you say that rental rates would increase if there was no rent control?

Mr Gerretsen: I'm asking you whether they would increase.

Mr Faggioni: You specifically said that if there was no rent control, rental rates would increase. You said that.

Mr Gerretsen: That's right.

Mr Faggioni: Why would you say that?

Mr Gerretsen: I'm going on the assumption that that's the assumption that you're going on. Why would you be against rent control otherwise?

Mr Faggioni: We're just against control, period. We believe private industry or business or market forces will dictate what the rent will be. Going back to what you said earlier, back to your comment, rents have in fact decreased because the supply of rental accommodation is

excessive. It's between 6% and 7% in certain sectors of Sudbury. I'm specifically limiting my comments to Sudbury. We have lowered rent on numerous buildings. It's fair to say that, with or without rent control, the market will dictate what the rental rate will be.

Mr Marchese: Thank you very much, Mr Faggioni, Mr Zulich. There are different parties here, of course. The New Democratic Party, which we represent, talks about greater controls, because we believe in that; we believe we need to regulate the free market system that you love and that they over there love. The Liberals are somewhere in between; it depends on the times.

I wanted to ask you several questions about rent control. One of the questions has been asked already, that is, on the whole issue of rent control, some of them argue that if you get rid of rent controls that's going to be an incentive for you to build. Is that true? If we get rid of rent control, which is in part what this bill does — not completely, but in part — is that going to help you to build?

Mr Zulich: Not today, because of the vacancy, but in time, as that vacancy is absorbed, yes, it will.

Mr Marchese: Not today, but sometime in the future?

Mr Zulich: Yes.

Mr Marchese: And you link that to the vacancy rate. When it's zero, you say you're likely to build because there's going to be a demand, presumably.

Mr Zulich: Right now we have a vacancy in Sudbury because of the massive influx of cooperatives that were built in the city of Sudbury. That's where our vacancy originated. There was some new development, but higher-end development, because that's what the market was demanding. The lower-end development came in and stole a lot of our tenants from our older buildings, our three-storey walkup buildings. That's what contributed to the vacancy rate, as well as the other facts.

Mr Marchese: You're not the first one to say it. In fact, a number of other people who build rental buildings have been saying that they saw the government's building as competition. I think they agree with you. I'm not sure; they'll have to speak for themselves. But I don't agree with that, because part of the problem is that unless the government builds affordable housing, no one else is going to build it; that's the problem. Do you agree with that?

Mr Zulich: I think part of the root of that problem was the rent controls in the first place.

Mr Marchese: We don't think there's a connection with that. In fact, there is no logical connection I've seen, other than hearsay from them. There is no evidence whatsoever that that is the case.

Mr Zulich: With rent controls, your rent is low so your vacancies are low, because no one can build new units. Do you follow me so far?

Mr Marchese: Absolutely, but let me make the other point. Under our existing law — there was rent review

with the Liberals, where rent increases went anywhere from zero to 110% at times. We brought in rent control —

Mr Tom Froese (St Catharines-Brock): Is that right, 110%?

Mr Marchese: It is very right, absolutely right. Under rent control there were limits imposed on that, but you still had a maximum, which some people objected to, but we gave in to that. That has allowed many of you guys to increase rents to a maximum which is very high in many cases. Would you agree with that?

Mr Zulich: Yes.

Mr Marchese: Okay. That's under rent control.

Mr Zulich: What other industry has a guaranteed increase in its income stream, on an annual basis, with rent control? And because of rent control, you never have a vacancy.

Mr Marchese: I'm not sure it's because of rent control that you never have a vacancy.

Mr Zulich: It has stifled development.

Mr Marchese: I'm not sure, by the way, that because of the building of cooperatives you all of a sudden have a vacancy. The reason you have a vacancy, in my view, in many cases is that many people can't afford the rates. It's in this city as many other cities. Some of these people are going back with their families or doubling up, as people say, because they can't afford it. You can blame it on co-ops or social housing or non-profit housing, but I think there are other economic factors at work.

I want to raise one more point.

The Chair: Very briefly.

Mr Marchese: Yes. There's a fellow they hired to do a study for them; he's an economist. He says the reason some of you guys are not building is because there is an economic gap between what it costs you to build and what people can afford. That's why you're not building. The point I make and that many others make is that if people could afford it in terms of supply and demand, you'd be building. The reason you're not building is that people can't afford to pay what you'd need to build. Would you agree with that?

Mr Zulich: Agreed. Before we'd build, we'd buy something that's existing. It's cheaper to buy something existing and keeping the rents at that level, and the reason the rents are at that level is because of rent control — not economically feasible to build.

Mr Marchese: Otherwise they'd go up.

The Chair: That's it, Mr Marchese. It's the end of the day. Gentlemen, for such a brief presentation you had a lot of questions. Thank you for being cooperative and providing us with your thoughts. This meeting is adjourned to Ottawa at the Westin Hotel tomorrow morning at 8:30 am.

The committee adjourned at 1641.

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Vendredi 8 août 1997

**Standing committee on
general government**

Tenant Protection Act, 1996

**Comité permanent des
affaires gouvernementales**

Loi de 1996 sur
la protection des locataires

Chair: David Tilson
Clerk: Tom Prins

Président : David Tilson
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Friday 8 August 1997

Vendredi 8 août 1997

The committee met at 0831 in the Westin Hotel, Ottawa.

TENANT PROTECTION ACT, 1996

LOI DE 1996 SUR LA PROTECTION
DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies / Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

PROVINCIAL COUNCIL OF
WOMEN OF ONTARIO

The Chair (Mr David Tilson): Good morning. The standing committee on general government of the Ontario Legislature is holding public hearings on Bill 96. This committee will be sitting all day. The first delegation this morning is the Provincial Council of Women of Ontario, Beth Cook and Helen Saravanamuttoo.

Mrs Beth Cook: We appreciate the privilege of appearing before your committee. The council is over 100 years old and has been presenting on issues concerned with a healthy society for that length of time. The provincial council is made up of local councils and affiliated organizations. We have no landlord or tenant organizations in our group so we are serving no self-interest. We come before you because we are concerned about the need for decent, affordable accommodation for individuals and families. We think it's essential to the kind of healthy society we all want to live in to have that, especially for low-income families.

As you listen to all the groups that come before you today, I would like you to keep a few things in mind. With this lovely weather we don't think of problems with sleeping outside, but we all know that housing is essential to survival in Canada; that's a given. But most of us either own or rent very comfortable accommodation. If we decide to move, we do not think of anyone preventing us from renting the accommodation we can afford because of the source of our income, our race, our culture or ethnic background. Homelessness is far from all of our thoughts, as is the thought of being forced to pay high rents for cramped, dirty rooms in need of repair.

Because of this, for many years the council has supported the provision of social housing for low-income and special needs individuals and families. But you all know that with the end of construction of social housing most of these people are forced to rent in the private market. However, Bill 96 will change many of the protections which made it possible for low-income people to locate and keep affordable housing.

We are especially concerned about the provision in section 200, and also section 36, with regard to human rights, the addition of the income information as something allowable by the landlords. We all know there's a certain amount of discrimination right now by landlords on the basis of a variety of things. We know that because after they've been refused other people go back and find that the place is still vacant. There have been studies which show a tremendous number of people could be excluded if the 30% of income were used as a level at which landlords would cut people off. We feel that this would open the door for discrimination not only against social assistance recipients but against people on the basis of race or ethnic background, immigrants, a whole variety of things.

I think you know that studies have shown there is no real difference between people of income levels, that default mainly occurs because people's circumstances change, that it's quite sufficient for them to have good credit status and good references and this really provides for reliability of payment. Of course, landlords deserve to be paid. My parents and my grandparents were landlords and they certainly would have been unhappy if they were not paid. But you don't need to ask people's income to do that, and I consider that a violation of human rights by category.

We are also concerned about some of the time lines on references that you have in the act, because if they were to use a lengthy time line that would mean young renters and new immigrants would be totally out of luck.

We have long supported the rent registry. We feel that the rent registry was a very useful tool for people to locate the type of accommodation they could afford, let alone look at whether they happen to be paying a legal rent.

We also have concerns around the repair-maintenance provisions. A number of larger cities have property standards bylaws. Most of the places in the countryside do not have such property standards bylaws and there's already a great deal of difficulty enforcing them. Most

landlords are good landlords and keep their places in repair. But we've had some record with really bad landlords in this particular community and it has been a very difficult process to force them to repair the property.

Therefore, we feel that your sections 135 and 146 of the act really make it cumbersome and difficult for a tenant to obtain vital services if the landlord should decide to cut off the power. These things can be pretty desperate in the winter and to find repairs in municipalities where there are no bylaws. We think there should be a provincial minimum standard.

With regard to equity and fairness, we believe that your time lines are really very tight, especially on eviction. There seems to be a difference in the standards you are setting for landlords and tenants. We question this on the grounds of fairness. If the tenant is to sue, there is a different time line for the tenant to sue than there is for the landlord to sue, and that just does not seem to me to be a fair matter.

We are really concerned about the overall impact of these provisions on the most vulnerable people in our society and the low-income families. Helen has a lot of experience in this area and she will speak to that aspect.

Mrs Helen Saravanamuttoo: My name is Helen Saravanamuttoo and I'm also very pleased to be here today. Thank you for the opportunity to present to you. I'm a social worker who has worked with families who have been in shelters.

I'd like to say, first of all, that we're really concerned about the effect on the supply of affordable housing. This may seem a little bit of a red herring, but I remind you that the Honourable Al Leach, Minister of Housing, introduced these hearings with the words, "The whole purpose of this is to get more units built so that tenants have more choice." We believe that this bill is going to have the opposite effect.

0840

First, housing will decrease because it will become more expensive. I'd like to put this in a context. At the present time, salaries of working people are going down so that affordable housing, by definition, is not housing that becomes more expensive. The second thing is that I think it would be a good idea if the minister consulted with the Minister of Community and Social Services because we talk about 30% of income being affordable rent. For families on social assistance, for instance, a two-parent family with two children, if they pay average market rent in Ottawa-Carleton, they are paying 61% of their income in housing; a single-parent family with one child would be paying 63% of their income in housing. These are just extraordinarily high percentages. It means that money is being taken from other essentials such as food and clothing.

We have a supplementary couple of sheets to our brief. I hope you all have it. I won't go over it, but I'd like to emphasize the importance of permanent housing. As I said at the beginning, I have worked with families in shelters. These families become totally disorganized simply

because the burden of the insecurity of housing really takes a tremendous toll. This puts enormous barriers in the way of people getting jobs. It's documented that the effect on children is quite severe. There are emotional consequences plus the health of children. A number of these families are in motels with no adequate cooking facilities. The effect on nutrition is just incredible. Altogether, the lack of affordable housing is bound to push more families into homelessness. It's already a major issue, it's already a major cost to municipalities. We urge you to look at this.

Mrs Cook: I'd just like to add something on the provision with regard to removing rent control on vacant apartments. I see a great potential for harassment to make tenants leave the premises. If vital services are turned off and other things are done, by the time they could go to some property standards place, it's really much, much too late to do anything. The drafters of this legislation must have felt that this was a possibility or else they wouldn't have doubled or more the fines for harassment, but the record here is very poor.

Hardly any of these cases have ever been able to get very far because it's a question of one person's word against another person's word. Over the past 10 years there have been very few cases and the maximum fine has been around \$300, so this isn't much of a disincentive to using harassing methods to get a tenant out. I think you really have to look at those measures and look at some better way of preventing this kind of harassment to vacate because of vacancy decontrol.

The other issue is that, when the minister proposed this legislation, he felt that decontrol on these units would increase the production of low-cost rental units. I'm sure this committee heard last year from developers and others that the situation was far more complex than that and rent decontrol for these units would not really increase it. For years there was no rent control on new units and it didn't increase the production of them.

Roger Greenberg, whom you are going to hear later today, in 1995 wrote a lengthy article in the *Citizen* outlining all the disincentives that are there to prevent production of low-cost units, and I think the province should really look at all those other disincentives rather than focusing on this, which will actually reduce the number of available units.

I think that's all we want to say. You have our brief to read further on it. If anybody has any questions —

The Chair: Thank you, Mrs Cook and Mrs Saravanamuttoo. Mr Cleary.

Mr John C. Cleary (Cornwall): I just wondered what your opinion was on the tribunal. If you think you're speaking on behalf of the tenants, will they be better used by the tribunal, or how do you feel about that?

Mrs Cook: I think it really depends upon the qualifications of the people who are on the tribunals. If they have experience perhaps as judges and if they are not merely political appointees, that will make a great deal of difference.

I think the way it is being arranged in the few places where these are located and the reduction in the number of offices where there is access to all the procedures is going to be difficult too.

The tribunal could be a speedier provision if it works, but I suspect that the tribunal — I have no way of knowing until we have some experience — might be weighted on one side or the other, depending upon what party is in power at any particular time, and parties do change in power, so it might actually end up unfair in some eras to both sides.

I would hope it would be a speedier resolution and that the mediation procedures that are included would be useful. But I think beforehand, it's really hard to say how good this is. Court costs are very steep for low-income people and there's less legal aid. I think the tribunal costs might be less but I can't be sure in advance. Your experts from various legal aid groups who are on your list for today could probably give you a better answer than I could.

Mr Rosario Marchese (Fort York): I want to thank you both for a very thoughtful presentation. I agree with almost everything you've said.

With respect to the issue of supply, I have been arguing for the last week that we're going to see fewer apartment buildings being built in the next many, many years. The government cancelled housing projects. They don't want to build; they want the private sector to build. Yet we know the private sector is not going to build affordable housing. You've heard it and I've heard it, but they have a different view of this.

You talked very well about harassment. The fact that they have doubled the fine is a recognition that it will go on, but doubling it doesn't mean that harassment will be abolished simply because it's a heavier fine. I think your observations in that are very good.

Salaries of people are not going up, they're going down, yet decontrolling means higher rents and those who stay in the apartments are going to face higher increases because the property taxes are going to be passed on and utility costs are going to be passed on, including capital costs, which will be increased by one more per cent.

Everything leads to a problem for tenants. Is it possible that people like yourselves and myself are so completely misinformed that we are not understanding the effect of this bill?

Mrs Saravanamuttoo: We certainly hope that we can bring some understanding to this, and I think Beth has done a very good job on that. The effect on families and children I cannot emphasize enough. Permanent housing is so important to the wellbeing of children. You get children who have been doing reasonably well in school and they get shuffled into a shelter and their marks just plummet and they start to show evidence of emotional disturbance that has not been seen before.

The number of accidents among low-income people is much higher. One of the reasons is because they live in more hazardous housing. Beth referred to the fact that

we've had some landlords that have not kept their places up to standard. This happens and low-income people are sometimes paying exorbitant rents for housing that is not secure, that is unsafe, that by any standards is really not liveable.

0850

Mr Steve Gilchrist (Scarborough East): Thank you both for your presentation. I must rebut something Mr Marchese said in part of his comment, and he followed up on yours. StatsCan just last week reported that in Ontario in the last year average salaries are up 3.9%. I think that has to be taken into context.

Ms Cook, you said one of the most honest things today we've heard in the hearings here so far: You have no way of knowing. None of us do. Our goal is to put in place a mechanism that will have speedier processing of disputes, to have less harassment by changing the mechanism.

With all the days of hearings, we've had not one person who has sat there and faced us and said they're happy with the status quo. Surely, if you recognize there is harassment of tenants right now, and you did in your presentation, and surely, if you recognize the cost of going to court — and the cost in other terms of landlord and tenant disputes is very high and very debilitating in the relationship — then clearly a different path must be taken.

We believe we've set out a path that will accomplish those goals and we're prepared to be judged by the results as time goes by. But I think at the outset what really profits all of us most is people looking at the proposed legislation, and if there are means of improving it, and you made a number of suggestions for which we express our appreciation, that's what this is all about.

To speculate, as my colleagues opposite do, that the glass is half-empty instead of half-full I think is just as inappropriate as our speculating that the world will become a perfect place. This is our attempt to remedy the existing situation. In Scarborough, when we were elected, the waiting list was seven years for public housing. No one with any social conscience can accept the status quo as an option. We've set a goal and I hope you'll recognize it in that context. I appreciate your comments.

The Chair: Very briefly please, because we're really out of time.

Mrs Saravanamuttoo: I'd just like to say very briefly that it may be true salaries have gone up in the last year, but the gap between the rich and the poor continues to increase and the bottom 60% of people continue to lose. I think that's a very important distinction.

The Chair: Thank you very much, ladies, for your presentation this morning.

OPTIONS BYTOWN NON-PROFIT HOUSING CORP

The Chair: The next presenter is the Options Bytown Non-Profit Housing Corp, Michel Lefebvre, the executive director. Good morning, sir.

Mr Michel Lefebvre: Good morning. I hope everybody got a photocopy of my text.

The Chair: Yes, we do, sir. You may proceed when ready.

Mr Lefebvre: Good morning. Bonjour. I am a landlord and my name is Michel Lefebvre, as you know, representing Options Bytown Non-Profit Housing Corp. I thank the government of Ontario for this opportunity to express myself concerning the possible elimination of rent control by the new Tenant Protection Act, Bill 96.

First, I want to say clearly that I am against the abolition of rent control. I believe that regulations and controls are necessary. I am here to offer the view that the abolition of rent control will have a very negative impact on our agency and our social housing environment.

Options Bytown is a non-profit housing corporation whose mandate is to provide supportive housing to homeless residents of shelters seeking permanent and semi-independent living accommodation.

Since the inception of Options Bytown in 1986, we have received 1,600 applications but have housed only 400 tenants. Options has always maintained an extremely low vacancy rate and tenants typically wait two years before being offered a one-bedroom apartment. Two years is a very long time, considering that 70% of our tenants come from the streets and shelters like the Shepherds of Good Hope, the Salvation Army, Mission for Men and the YMCA.

Eighty per cent of Options Bytown's tenants live on disability pensions and GWA benefits — welfare — 49% of all tenants have a self-disclosed history of alcohol or drug abuse, and at least an estimated 60% have a diagnosed mental illness.

Options offers non-judgemental intervention and a flexible format which allows tenants to live in a pleasant, secure and communal environment. Eighty per cent of our tenants have maintained a successful tenancy with us and in subsequent low-income housing following their move from Options.

In the last decade, our tenants' capabilities and willingness to pay rent have been decreasing. Rents in new buildings far exceed the market rate and are inaccessible to the vulnerable members of our society. That is why I foresee increasing homelessness resulting from the abolition of rent control. We will have more homeless than we have ever seen before in Ontario. Developers were losing money in 1996 and will probably lose money anyway, with or without an unregulated market, in our depressed economy, simply because the majority of tenants cannot afford to pay excessive rent any more.

The organization of Options Bytown is therefore against the abolition of rent control and privatization of public housing for the following reasons:

(1) As I said already, more homelessness will result from the abolition of rent control, and Keith Norton, chief commissioner of the Human Right Commission and former Conservative cabinet minister, made it clear that Bill 96 will discriminate against tenants because income

criteria will severely restrict housing opportunities for seniors and people with disabilities.

(2) In Ontario, we will not be able to take care of all of our homeless population because there are no new subsidies for new social housing projects to take care of the poor, and certainly Bill 96 will only decrease affordable housing.

(3) Bill 96 has uncertainties and is unfair. For example, without rent control, incoming tenants could be charged and treated differently from existing tenants.

(4) Retaliation on maintenance issues could be devastating for tenants.

(5) Bill 96 could allow unfair eviction powers to landlords also. For example, in care homes landlords can evict tenants who no longer require a level of care provided by care home landlords, or evict tenants who require a level of care that care home landlords are unable to provide. Will vulnerable adults and seniors be able to discuss new rents with their landlord in a fair and equal manner? Bill 96 allows landlords to apply to a new tribunal for an order to take possession of an apartment if, for example, the tenant moves out in the middle of the night, and the landlord would be entitled, without notice, to throw out the tenant's property within 30 days.

(6) Because of the state of uncertainty and anxiety created by Bill 96 within the most vulnerable, weakest members of our society — studies show that vacancy decontrol was a proven disaster in New York City. The rents increased by 52% and the level of harassment of tenants doubled without producing any increase in the building of new rental housing. There was an article by Tim Collins, the former New York City Rent Regulation Board director.

(7) Because landlords have enjoyed a 10-year winning streak where annual rent guidelines exceed inflation — I cite Dan McIntyre from the Ottawa Citizen last year — we believe that landlords have been making a profit and still can make a profit within rent control guidelines. Bill 96 will only encourage landlords to push for more giveaways like the power to have rent increases through private agreement.

(8) Bill 96 seems to violate tenants' civil rights and privacy. Landlords will have the power to enter an apartment without notice any time during the day or even after dark. Landlords will also be able to change locks without notice. A tenant who does the same could be fined to up to \$10,000. That's pretty unfair.

(9) We believe bureaucratic flaws can be corrected to the satisfaction of all parties.

(10) Ontario tenants want and deserve fairness, security and certainty. Effective rent control is necessary to prevent exploitation of vulnerable tenants like ours. Rent control was created to prevent exploitation and government should stand by it.

As landlords ourselves, Options and I are asking the government of Ontario to vote against Bill 96 and to maintain our present law.

If rent control procedures are to be modified, perhaps only a few measures should be taken to decrease legal bureaucracy and improve the lengthy entanglement involved in administering the law. These often prolonged legalities, such as the difficulties with eviction, have greatly contributed to the loss of faith from landlords in rent control.

Yes, we need changes in our present law, but also we need more skilled advocates to ensure fairness for everyone. Please don't throw the baby out with the bathwater. I am asking this government not to abandon the social housing mandate because there is simply no safety net any more in the economic marketplace.

My last word is, justice involves protecting the rights of others. It protects against everything that destroys human dignity. In our world we need some guidelines to ensure fairness and satisfaction to all.

0900

Mr Marchese: Thank you for the presentation. You heard Mr Gilchrist in the previous remarks he made to the other deputants. He says that things haven't worked, that the system is broken, so that what this bill tries to do is restore some balance and bring some solutions and we're not going to know whether this works or not, so we're just going to have to be patient and wait. What do you think?

Mr Lefebvre: I think we should improve the law but we should stand by it. We don't have to change everything around. I disagree with Mr Gilchrist.

Mr Marchese: I have a serious concern around issues of housing supply and we have a disagreement with the government. Their argument is that things didn't work before, that we still have a lot of people on the waiting list, so that if it didn't work with our government, the NDP, and the housing we built, then we should let them, through the private sector, try to solve it. How do you feel about that?

Mr Lefebvre: I'm against the private sector taking social housing, for example. I feel it's the government's job and responsibility to take care of social housing, not the private sector's. I only foresee disaster if the private sector gets into social housing.

Mr Marchese: I have to tell you that the private sector probably doesn't want to get into that field. One of the reasons they don't really want to get into the field is because to build affordable housing would mean absolutely no profit margin whatsoever; in fact, they probably would lose money. So they're not going to build. If they don't build and this government says, "We don't want to build," what's left?

Mr Lefebvre: Exactly. I agree.

Mr Gilchrist: Thank you for your presentation. I appreciate it. Let me just correct one point in your presentation, point 8. As you would see in section 20, you're incorrect. Landlords will not have the ability to enter an apartment without the tenant's permission, except in the case of an emergency. I hope you would agree with me that in a fire or a flood or something that's not unreason-

able. By the way, that's virtually word for word exactly the way it is in the Landlord and Tenant Act.

You also said to Mr Marchese that you didn't see why we were changing everything. Quite frankly, in the Landlord and Tenant Act, if I had to pick a percentage, I would say that with the exception of the fact that we're moving from forcing people to go to court to resolve these issues into a streamlined and specialized tribunal — that's the only substantive change to the entire existing Landlord and Tenant Act. On the rent control, I appreciate there are changes in that, but the basic law, the Landlord and Tenant Act, the oldest one, survives virtually unchanged and is really just being renamed.

Mr Lefebvre: But we have a good court system. We don't need another tribunal. We have enough.

Mr Gilchrist: It's not a question of whether courts are good. It's a question of the expense and it's a question of the delays. I'm glad to hear that in Ottawa it's good, but we've heard different stories in other parts of the province, particularly in Toronto, where there are significant delays. That is not to the benefit of either the landlord or the tenant. If there's a dispute of some kind, it's appropriate that it be resolved, hopefully at no cost or very low cost, particularly to the tenant.

Let me just go back and ask you another question. You say since the inception of Options Bytown you've received 1,600 applications but housed only 400 tenants. Am I to understand that ratio of one in four has been in place since day one, since 1986?

Mr Lefebvre: There are so many needs; there's no new housing, no new social money, nothing, so that's why we can't afford to house all these people.

Mr Gilchrist: Are you aware what the waiting list was in Ottawa, say, two years ago for public housing?

Mr Lefebvre: For public housing for all Ottawa I don't know exactly. I know for Options. Two years ago for Options there was a four-year waiting list; nowadays it's two years. It's getting a little bit better. But in all Ottawa — I know for Ottawa-Carleton housing it was five years for some, but it was different in other kinds of housing, depending on whether you wanted a bachelor, a one-bedroom or whatever.

Mr Gilchrist: I'm not trying to paint a picture that everything is rosy out there. It's getting better, but it's not perfect by any means. But you've just said the waiting list has been cut in half here in the last two years, yet many people have come before us in this committee and said things are actually getting worse.

On the day we were elected there were 1,000 people in transient or emergency shelters in my riding alone. They had converted virtually every motel on Kingston Road into a shelter. That 1,000 is down to 400 today, because those people have been placed in housing as others have left that housing because single-family homes are more affordable, because of the price of a mortgage today. There has been that movement through the system and they've literally been able to shut down over two thirds of all the shelters.

Mr Lefebvre: They move on, but sometimes in Ontario laws change and they receive less income or they pay more for their rent, so people have moved out of Ottawa or out of Ontario. I don't know, perhaps they find a better place to live, because it's very hard to live. Perhaps that's why there are fewer people — they're moving around. But there are still a lot of poor people not in homes.

Mrs Julia Munro (Durham-York): Thank you very much for bringing our attention to these issues. I wondered if you would care to comment on your point 9. You refer to bureaucratic flaws. I wondered if this had something to do with the process that currently exists and if you see some virtue in the tribunal process, if that was the point you were trying to make there. I just wondered if you'd clarify that for us.

Mr Lefebvre: As a landlord, we know it takes time and we have different forms to bring to the court for the Landlord and Tenant Act and so on. Sometimes it's very frustrating for the landlord to evict people. Perhaps the flaw is we should speed up the process — not change to another tribunal but speed up what we've got right now and perhaps forget about a few forms and go faster in the process; less cost for both. Then we can decrease the legal costs by doing fewer forms and more affordable, more rapid service, speedier service. But we don't have to change what we've got.

M. Jean-Marc Lalonde (Prescott et Russell): Merci, Monsieur Lefebvre, pour votre présentation. Je crois que vous venez de toucher un point qui est très, très important, la partie 10 de votre présentation. Part 10 is the most important one I could see in your presentation today: "Ontario tenants want and deserve fairness, security and certainty. Effective rent control is necessary to prevent exploitation." At this time, with this rent control, you probably know that municipal taxes will increase anywhere from 20% to 30% as of January 1, 1998. We have all the proof to prove it.

Who is going to be suffering from this part? Really, in the urban sector, like the city of Ottawa or the Ottawa-Carleton regional government, we know outside a 15-mile radius, especially towards the east, there's no public transportation. What's going to happen to our seniors? They will have to move out of this city, and when they move out of the city, there's no public transportation. They need public transportation for doctors' appointments; they need public transportation for anything that is required that is not available in the rural area.

At the present time, we know that the landlord is expecting those tax increases. This is the only way the government is going to protect landlords, so they will increase the rent to the poor people, low-income and senior citizens. I'm glad to see here this morning — I think it's the best time to get the seniors, because we know they're up very early in the morning. They were here this morning for the first presentation, and it shows they are worried. I would be worried, and I am worried for them too.

Do you think there will be more demand in the rural area due to the fact that we will remove rent control at the present time?

0910

Mr Lefebvre: Sure, because when people move, landlords can raise the rents. People won't be able to afford the new rent any more, so they move out. I guess we'll have more and more demand for services and for other affordable housing. I guess seniors will be touched more than any other population; seniors and the psychiatrically ill and the homeless population.

Mr Lalonde: We all know what the government's plans are.

The Chair: Very briefly, Mr Lalonde.

Mr Lalonde: The mega-week we went through in January, what was promised at that time, is on top of what's happening here. Losing rent control is really going to affect everywhere, not only in the urban sector but also in the rural area. There are fewer apartments available for rent-geared-to-income in the rural area, but in the city of Ottawa we know there's a waiting list. Mr Gilchrist just mentioned that in the Toronto area there's a seven-year waiting list. We know why there's a seven-year waiting list. It's because at the present time la Société de logement de l'Ontario administre ces appartements à et actuellement le tout va être transféré aux municipalités. When it is transferred to municipalities, municipalities won't be able to afford what it is going to cost the low-income and also the seniors.

Mr Lefebvre: I agree.

The Chair: Sir, thank you for coming and giving us your presentation this morning.

WEST END LEGAL SERVICES OF OTTAWA

The Chair: The next presenter is the West End Legal Services of Ottawa, Mary Garrett, community legal worker.

Ms Mary Garrett: It's nice to see some of you again.

The Chair: We just saw you yesterday.

Ms Garrett: I think so.

The Chair: You're following us around.

Ms Garrett: We're trying to.

West End Legal Services of Ottawa is a general poverty legal clinic. We have operated in the west end of Ottawa since February 1982. We have staff composed of four case workers; two of the case workers are lawyers and two are community legal workers. We have two support staff as well.

Our office assists low-income people to deal with problems in income maintenance, welfare, family benefits, EI and CPP, immigration, debtor/creditor, workers' compensation and housing issues, such as the Landlord and Tenant Act, the Rent Control Act and the Rental Housing Protection Act.

The majority of the work that comes to our clinic is in the area of housing issues. I should point out that our clinics in Ottawa do little with regard to the Rent Control

Act and the Rental Housing Protection Act, since we have been fortunate enough to have the Federation of Ottawa-Carleton Tenant Associations doing such a fine job assisting tenants in these areas. We do not know how long that will last, with the provincial government's defunding of this organization.

In 1996, West End Legal Services opened 405 files. Of these 405 files, 136 files, or 34%, were related to problems under the Landlord and Tenant Act. We did not open any new rent control files, although we remained active in a rent control file which affects rents of 616 tenants. In this same year, we provided summary advice to 3,955 persons. Of these calls, 1,938 of these calls were in housing-related areas. Most involved problems with the Landlord and Tenant Act and only 31 involved rent control. I threw that bit in because statistics make it sound like a better brief.

We have not only been involved in delivery of services in the area of housing issues, but our clinic, in conjunction with other clinics in Ottawa and throughout the province, as you saw yesterday, has been involved with law reform issues. We have appeared before other government committees and have been consulted by the government on other issues, such as funding for the tenant movement and the Rent Control Act.

We believe that we and other legal clinics have a broad background of knowledge in the area of housing issues. Our knowledge is theoretical and practical. We not only believe but know what we speak of.

West End Legal Services of Ottawa supports the brief presented by Legal Clinics' Housing Issues Committee, LCHIC, which I spoke to yesterday. We have not, therefore, attempted to duplicate it, but will rather be complementing it.

West End Legal Services is one of four Ottawa clinics that will be speaking this morning. I will not be addressing all the concerns about the Tenant Protection Act because my friends from the other three clinics will be addressing the issues I do not cover. I have been designated to speak to you about the portion of the Tenant Protection Act now under the Rent Control Act.

We do not believe that decontrolling rents for the first contract with landlords will stimulate the building of new residential rental units. We have never believed this would work and were delightfully surprised last summer when developers stated the same opinion to the government committee hearing opinions on the Tenant Protection Act before it became Bill 96.

We do not believe that decontrolling initial rents will give tenants better bargaining power with their landlord. Since the base rents for the tenancy will be structured on the initial rents bargained for, the landlord will have no choice but to bargain the tenant up as high as possible. We submit that the decontrolling of rents on initial contract does not do anything to achieve the government's stated goal of encouraging new construction of rental accommodations. Decontrolling of rents on the initial contract does not protect tenants.

The government stated that it proposes to keep rent controls on units that continue after the initial contract. While this legislation talks about rent controls, it does not provide it when we take a closer look at the legislation.

Under both the Rent Control Act and Tenant Protection Act, a yearly guideline rent is set and announced in August of the previous year. Under both legislations, a complex formula is used to establish a rent control index for operating cost, which is tied to the cost-of-living index, and then 2% is added to this amount. This is where these two legislations differ. Under the Rent Control Act, this 2% annual increase was for capital expenditures and maintenance. Under this act it is for "just because." No reason is given for the 2%. We have had problems understanding why the government would give landlords an annual 2% increase for capital expenditures that they did not have to justify or verify it was used for. We have even more problems understanding why the government would give landlords a 2% increase for no reason at all. The annual 2% "just because" rent increase does not protect tenants.

The present rent control legislation allows increases above the guidelines. These increases are limited to 3% above the guidelines, for a maximum of 12 to 24 months. As well, allowances for capital expenditures are granted after taking into account the 2% allowed on the guideline increase for capital expenditures and after adjustments for costs no longer borne. The Tenant Protection Act proposes that these increases be increased to 4% above the guidelines, and there is to be no adjustment for the 2% "just because" increase which had been allowed for capital expenditures under the Rent Control Act, nor for costs no longer borne.

The increase will not be limited to the two years under the Rent Control Act, but instead will continue until the total increase has been taken. That is, if a landlord can justify a 15% increase, he can take a 4%-above-the-guideline increase the first year, the second year, the third year and a 3% increase the fourth year, compared to the 3% increase allowed for two years under the present law. This could be a hardship for tenants. This does not protect tenants.

One of the reasons a landlord can apply for rent increases above the guidelines is if there is an extraordinary increase in property taxes. Downloading of social services, social housing and other programs to the municipalities will no doubt create a very large extraordinary increase in property taxes, which will again pass along above-the-guideline rent increases to the tenants. This does not protect tenants.

Under the present legislation, tenants can continue to volunteer to pay rent increases. That is, if the tenant gives a paper to the landlord saying they agree, their rents can be increased if a capital improvement is allowed.

I live in a 30-year-old building and, naturally, parts are breaking down and replacement parts are getting harder to find. My bathroom floor had two years of repeated repairs when one tile after another would chip, break up or turn to

dust. Finally, my landlord informed me that they could no longer find replacement tiles, but they would put in a new floor for me if I agreed to sign the form stating that I would agree to the increase above the guidelines. I did not sign and I got a new floor, but many of my neighbours who do not work in a legal clinic, and who do not know their legal rights, did sign.

0920

Why should this legislation allow a tenant to volunteer to pay a rent increase because the landlord does not want to pay for maintenance they already receive money to do? This practice does not protect tenants.

Under the Rent Control Act, a tenant has six years to make a claim against his or her landlord for either the determination of legal rents or for making application for a discontinuance of service or for a charge of an illegal rent. Under this legislation, the limitation period for tenant claims against a landlord is one year. This is a drastic reduction in time for a tenant to enforce their rights. This does not protect tenants.

The process: Under rent control, if a tenant makes an application for an abatement due to discontinuance of service or maintenance, which would or could affect more tenants in rental complexes, all tenants are added as parties to this action. Under this legislation, each tenant would have to make their own separate application. This would cause a great deal of hardship for the tenants and a huge administrative nightmare for the tribunal.

If I could, I'll just use as an example the rent control case I referred to in the beginning of this presentation, when I mentioned that our office maintained an ongoing rent control case. Just for your information, that's been ongoing since March 1993.

We represent 19 of 21 tenants who brought rent control applications against their landlord, Redwood Residences, for lack of services and poor maintenance. As a matter of course, all 616 tenants residing in the complex were added as parties since the majority of the complaints involved common-area issues. While not all tenants were represented by our clinic, I attended one meeting called by the tenants' association which over 250 tenants did attend.

If this application was brought under the Tenant Protection Act, each of the 616 tenants would have to apply separately. Each would have to pay their filing fees. Now, we know that not all would make applications, but if we assume that the least number to apply is the number who attended the tenants' association meeting, we can assume there will be over 250 applications. That is 250 files; 250 calls for a mediator; 250 individual notices of hearing to the landlord; 250 different possibilities on the handling of each of these files; 250 individual orders — all of which could clog up the operations at the tribunal.

However, worse yet would be that 366 tenants would not be served. This would not necessarily mean that the landlord provided services to these 366 families. It would mean that this amount was unable to participate due to lack of knowledge, lack of money, lack of use of the

English language, lack of emotional or physical ability or some other valid reason.

Under the Tenant Protection Act, tenants who now would be protected by inclusion would lose out because they are not aware of their rights under the legislation to bring an application. If these tenants do not know their rights under the Rent Control Act, they will not know their rights under the Tenant Protection Act.

Should a landlord who is found in violation of the law be protected from a larger penalty just because the system has made it harder for tenants to take action against their landlord? We must remember that the adding of parties to an application does not penalize a landlord who is not in violation of the law. Not adding all tenants as parties does penalize tenants who are not receiving the services and maintenance they are entitled to. To not add all tenants as parties to an application that affects the whole rental complex does not protect tenants.

Conclusion: It is the position of West End Legal Services that Bill 96, the Tenant Protection Act, 1996, is flawed. In particular, there are problems, from our standpoint, with regard to the portions that will replace the Rent Control Act.

We, however, are realists and understand that Bill 96 will pass. We are hoping that you will make some of the changes that will make the legislation fairer to tenants. We believe many changes are needed, such as:

Rent control means no increases above the guidelines.

There should not be a 2% "just because" increase allowed in guideline increases.

If landlords are allowed to apply for capital expenditures to raise rents above the guideline, consideration should be allowed for the 2% "just because" allowed on guideline increases that landlords have received over the years, costs no longer borne and whether the repair is required due to neglect.

Tenants should not be allowed to relieve the landlord of his or her responsibility to do repairs simply by signing a paper to allow increased rents in order to get repairs done.

All tenants should be added as parties to applications affecting common issues.

Limitation periods for tenant applications should remain at six years.

If, however, the government should decide to make only one amendment to this legislation, it should be to its name. This legislation does not protect tenants. It should not presume to suggest it does in its name.

Applause.

The Chair: Please, ladies and gentlemen, the rules of the Legislature and the rules of this committee do not permit applause, negative or positive.

We have time for one question. Mr Marchese, please.

Ms Garrett: Mr Marchese, before you start, can I just thank the tenants who have shown up and those who will show up to show the government that they don't support this legislation? Thank you.

The Chair: We heard from you yesterday, but we'll hear questions again. Mr Marchese?

Mr Marchese: I think it's the government's turn, but I don't mind going ahead first.

The Chair: If you want to pass —

Mr Marchese: I'm not passing. I started, then the government, then the Liberals.

The Chair: Mr Marchese, you have one question.

Mr Marchese: You heard Mr Gilchrist earlier saying that there are very few changes made to the existing law, yet you just made reference to only some of the major changes. What do you think of his remarks about the changes they're making?

Ms Garrett: There have been a lot of changes made. I think they're shadowed to look like there are no changes, and I think the changes that have been made subtly have been very devastating. If we look at the change, which I didn't mention, to section 121 of the Landlord and Tenant Act, where tenants have been protected from eviction for enforcing their rights, the change of the word from "a" reason for being evicted to "the" reason has effectively stopped tenants from enforcing their rights. That's a major change in the legislation, no matter how well the government tried to hide it.

The Chair: That's all the time we have. Thank you very much for coming.

NATIONAL ANTI-POVERTY ORGANIZATION

The Chair: The next presenter is the National Anti-Poverty Organization, Linda Lalonde and Lynne Toupin. Good morning. We heard from your organization yesterday.

Ms Lynne Toupin: Yes.

The Chair: What does that mean?

Ms Toupin: That means there are many of us across Canada. My name is Lynn Toupin, the executive director of the National Anti-Poverty Organization. With me is Linda Lalonde.

For those of you who do not know who we are, we're a national non-profit, non-partisan organization. We have been in existence for 26 years, and our mandate is basically to represent the interests of low-income Canadians on issues and matters that affect them directly. You heard from Mr Barry Schmidl in Sudbury yesterday. He is one of the three members representing Ontario on our board. We are aware of his submission. We are focusing more specifically this morning on the issue of discrimination against low-income people. To that effect, I would not delay any further, and I ask Linda Lalonde to do the presentation.

0930

Ms Linda Lalonde: Bill 96 represents the first attempt by a provincial Legislature in Canada to legalize discrimination against the poor and effectively remove human rights for poor people in housing.

NAPO is here to urge this committee to revise sections 36 and 200 of Bill 96 to preserve the protections in the Human Rights Code as they currently exist.

Sections 36 and 200 would permit landlords to refuse applications for tenancy on the basis of income information. Landlords would be free to disqualify low-income applicants, such as people on social assistance, on the basis that their income is lower than other applicants or on the basis of arbitrary income criteria, such as the requirement used by many large property managers in Ottawa and elsewhere that the applicant be paying no more than 30% of income towards rent.

The Conservative government in Ontario in 1981 was the first provincial government to recognize the necessity of protecting people on social assistance from discrimination in housing. The standing committee on resources development recognized at that time that people on welfare were being refused housing by landlords largely because of their poverty or economic status. The proposal to include receipt of public assistance as a prohibited ground of discrimination rather than source of income, as other provinces had done, was designed to prevent discrimination based on level as well as source of income.

There is a major housing crisis facing poor people in Ontario. In October 1995 social assistance rates in Ontario were slashed by 21.6%. The maximum shelter allowance for a parent with three children was cut to \$602. All municipalities have stopped providing special assistance to cover the cost of last month's rent deposit.

We would invite the committee members to try phoning around landlords here in Ottawa, in Toronto or in any of the other cities you are visiting. Tell them you're on social assistance with three children, that you can't get assistance with last month's rent, and see if you can find a landlord to rent an appropriate apartment to you at \$602. This government has put thousands of families in this impossible situation and thousands are now running out of options. They've exhausted any savings. They've exhausted the hospitality of any friends or acquaintances. They're at the end of their rope. Thousands of families are now homeless in Ontario, desperately trying to find an apartment.

Two thousand families representing approximately 3,000 children are now warehoused in hostels or in welfare motels in Toronto. This is only a small portion of the homeless. Families will sleep on the floor of a friend or cram themselves into a basement before they will resort to living in a hostel. There have recently been two deaths of children in Toronto, one in a hostel from starvation, the other in a welfare motel from drowning. We can only assume that unless something is done, there will be more.

I'm going to go to the area of economic evictions now. Why would the government give a landlord the power to directly negotiate with the tenant for a rent increase of up to 4% above the guidelines without a hearing? The imbalance of power between a landlord and tenant would suggest that the negotiation might be a trifle one-sided. When an independent body is not involved, there will be

no control on coercion, threats or harassment. In addition, tenants with language or literacy barriers will not have the benefit of a third party ensuring that they understand what's going on.

Who will ensure that tenants are not being taken advantage of or even know that they do not have to agree to the landlord's request? We remind you once again that laws are put in place to regulate the behaviour of those who would not behave reasonably otherwise, not the good and honest landlords. It is the unscrupulous landlord who will take advantage of a tenant, and the more vulnerable the tenant is, the more obligation the government has to provide protection. Although it's an offence to coerce a tenant into agreeing to a rent increase which is above the guideline, do you believe that the tenant will be informed of this protection by the landlord? How does one prove coercion if it took place as part of negotiations between a landlord and tenant in private? Will the government make any effort to provide education for tenants on these and other rights?

It will be possible for a landlord to use the rent increase system to economically evict a tenant under this bill. This is a particular danger when municipal governments are being required to finance more and more of their expenditures out of property taxes, with the resulting potential tax increases which will now be directly passed on to tenants. Using the 1997 permissible increase of 2.8% with a rent of \$500 a month, property tax increases of 3% and an operating cost increase of \$600 per year as an example, a landlord could increase the rent by 2.8% plus 4% at a hearing plus \$50 per month for operating costs. The new rent would be \$599, which is almost a 20% increase and would be perfectly legal under this bill. A tenant who could not afford \$99 more per month would have to leave and effectively be economically evicted.

There are a number of parts of this legislation where lack of information and bars to the accessibility of justice will take away tenants' rights or hinder tenants' ability to enforce their rights under the bill. These issues have a particular impact on rural tenants, those without telephones or transportation and people with language or literacy issues.

If eviction notices no longer have to provide details of the reasons for eviction, how can a tenant or his or her representative prepare a defence or even decide if there are grounds to fight the eviction? Removing the requirement that tenants be informed they don't have to vacate the premises if they are fighting the eviction means that many uninformed tenants will lose their housing unnecessarily. When combined with the lack of power of the tribunal to restore the tenant to the unit in a case of wrongful eviction, the landlord will get away with unlawfully removing permanently many tenants who do not know their rights.

Some processes for the tribunal seem to be set up to create bars on access to justice, particularly for low-income tenants. For many people, filing a dispute to a landlord application within five days will be nigh on

impossible. Unless you have a copy of the act and the appropriate forms at home and are able to interpret the landlord's application, you may not be able to properly represent your situation in the correct way. This is of particular concern when the tribunal can dismiss applications without a hearing and award costs to the landlord if they deem the tenant to be misusing the process. The fact that the tribunal can demand that a tenant pay money into court before it will hear the case could effectively deny a low-income tenant access to the justice system, regardless of the merits of the case. For tenants with literacy issues and those whose first language is not the language of the court, there is no guarantee in this bill that translation, interpretation or other support services will be made available. There is also no guarantee that the tribunal will be geographically accessible to tenants, and that is of particular concern for low-income people.

The right to adequate housing is recognized in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and in other international human rights treaties which have been ratified by Canada. In 1976 when Canada ratified the Covenant on Economic, Social and Cultural Rights, Ontario agreed to ensure that these basic human rights were protected in areas of provincial jurisdiction. Discrimination because of economic status is prohibited under article 2(2) of the covenant and Ontario is obliged to provide protection from such discrimination.

Perhaps the Ontario government doesn't care about the views of the UN or the international human rights community. In our view, it should. Where have we come to as a society when we have so lost touch with fundamental human rights that we are prepared to legalize discrimination against poor people in housing and condemn them to homelessness?

Poor people are asking for nothing in this instance other than a fair chance to pay their rent along with everyone else. The recent hearings into income criteria in which NAPO was granted intervenor status found no evidence of any correlation between being low income and defaulting on rent. The evidence showed in fact that income criteria excluded half of qualified applicants and increased vacancy costs significantly, at a greater cost than any purported savings in default.

Section 200 addresses no rational business concern. It legalizes prejudice and discrimination against the poor. It is a reprehensible attack on our basic human rights.

Since the provincial government determines the maximum amounts to be allowed to social assistance recipients for rent, all of which are above 30% of the total allowance, they have a duty to ensure that these individuals are able to obtain housing with that amount of income. Sections 36 and 200 should be replaced with a section stating that a landlord cannot refuse to rent for income-related reasons to a prospective tenant whose shelter allowance is as high as or higher than the rent and utilities for the unit. This means if the rent is \$500 and

utilities are \$70 per month, a family with a \$602 shelter allowance from social assistance can afford the unit even though the cost is more than 30% of the tenant's income.

There are a number of places throughout this bill where a tenant's access to information has been reduced and the ability to avail oneself of the protection of the law has been curtailed. There is great potential for harassment of a tenant by a landlord, often with the possibility and incentive of financial gain for the landlord. A landlord is also given several means of using economic evictions through this bill.

We would like to draw attention to the fact that we're referring to the possibility of "a landlord," not "landlords," using this act inappropriately. Many landlords are fair and reasonable members of society and carry out their affairs with due regard for the provisions of the law and human decency. It's not for these landlords that strong tenant protection laws must be enacted but for those who abuse their position and power. The law must provide protection against abuse of that power, particularly for people whose economic power is not great.

We urge this committee to make significant revisions to sections 36 and 200 of Bill 96 as well as making additional changes to the bill in order to address the concerns that we have expressed. Thank you.

Mr Gilchrist: I don't quite know where to start. You indicated at the opening when the Chair greeted you that there are many of you. I don't know if you're aware that so far this week, we haven't heard from a single tenant speaking for themselves. I must say I somewhat resent groups coming forward and taking two slots and taking extra time. Because groups are allowed 20 minutes and individuals are allowed 15, that quite frankly deprived anyone of having that spot in Sudbury or here today.

0940

Having said that, I'm even more upset at what I must assume is the lack of attention to what's really in the bill. For example, you make a major point here about information: Eviction notices no longer have to provide details of the reason for eviction. Section 59, section 60, section 61 and section 62, the four sections that deal with eviction notices, all say "set out the grounds for termination," and I think this kind of fearmongering and misstatement is totally inappropriate.

Your group has now spent 40 minutes of this committee's time, which means three tenants, effectively, couldn't speak, and all you have asked us to do is take out one section. You've made no other suggestions about how we can improve the relationship between landlords and tenants. You haven't told us one thing that you think could be done to improve the lot of tenants, to reduce waiting lists, to reduce the problems we face in this province. I must admit I don't know why you've come before us here today. You've heard other groups say, "Take out section 200." I would have thought you could have used your 40 minutes to far greater value what you've done here today.

Ms Lalonde: First of all, I'm a tenant, as is Barry Schmidl, and I'm —

Mr Gilchrist: So am I, and I don't presume to speak for other tenants.

The Chair: Mr Gilchrist, let's hear the presenter.

Ms Lalonde: You've accused us of presuming to speak for other people, and I'm correcting you to tell you that I am in fact here as a tenant. Barry Schmidl is also a tenant. So we're not taking up the time of — you don't have enough slots to allow every tenant in Ontario to come forward, and we didn't make the choice —

Mr Gilchrist: So you think none should come forward.

The Chair: Mr Gilchrist.

Ms Lalonde: — of who should or should not be heard. I think we have made reference to other issues besides the 200/36 issue.

Mr Gilchrist: My point is if NAPO is making a presentation, then NAPO makes a presentation; it doesn't make two. The previous proponent has spoken twice before us as well. What are we to deduce when it's the same people who go and speak at hearing after hearing and we don't hear from other tenants? It sends a very interesting message, I must say.

Mr Cleary: Mr Chairman, just a point here that I wanted to correct. The Liberals started at 8:30 — they were the first to comment — then the NDP second, and then it was supposed to be the Conservatives and you went on to the NDP. Are we not going in rotation here?

The Chair: Mr Cleary, it's a good point. This is your first time before the committee —

Mr Cleary: I've sat on lots of committees, believe me, as many as you probably.

The Chair: Mr Cleary, I don't mean to offend you. This is the first time you've been on this particular committee for this particular bill. What we're doing is, if there isn't enough time, I allow one caucus to speak and I try to share those one-time sets of questions among all three caucuses. The New Democratic caucus has now had their one-shot question. The next turn will be either your caucus or the government caucus. I'm sorry, I certainly don't mean to offend you, but that's the practice that this Chair has been following, so that we try and get as many questions in as possible.

Mr Cleary: Okay. This Chair is different than some of the others.

The Chair: Life is different, isn't it, Mr Cleary, but that's the way we're running it today.

Mr Cleary: My question to the presenter: I like your comments on the new tribunal that will be set up. Do you think that will be an asset or a liability to the people you represent?

Ms Lalonde: I think part of the problem is that we don't have all the information about how that tribunal will be set up and will operate. Again that will be determined a lot in regulations. In many cases tribunals are better than court systems because they're more informal, they're more accessible for people who don't have three years of law school. But they do need the supports that we mentioned there, the translation, and they have to be geographically accessible to people.

Mr Cleary: Thank you. That was my only question.

Mr Marchese: I want to thank you both for coming. Your organization represents a significant portion of the population that is going to be seriously affected by this bill. I know they don't like to hear some of the views you represent. They would rather, I suspect, have more landlords coming to tell us how great this bill is. But I think your job is to identify problems. It's their job to come up with solutions. I don't think you in your deputations have all the time not just to identify problems but also to come up with solutions. I think once you've identified the problem, they've got to work at finding the solution.

What you have presented with other people points to the flaws of this bill. It's not balanced. It doesn't fix anything for tenants; in fact it makes their lives a lot more miserable. More and more tenants will not be able to afford the decontrolling of rents. More and more tenants who are sitting ducks are going to face increases they will not be able to afford. We are going to see the effects of this bill down the line and we are anticipating these problems before they happen. What you're doing is alerting them to it, and I hope they will listen to you as a tenant and as a member of an organization that is facing these problems.

Ms Toupin: If we came here today and we came here yesterday, it's in fact to address the very serious concerns that we have with this bill. We have focused particularly on the issue of sections 36 and 200 because of the discrimination low-income people will face by virtue of the changes that are being made to this law, in addition to all of the other issues. When you look at this in its entirety and you look at the context in which low-income people are living in Ontario at this point in time, I am very fearful what this bill will do to people when income information is allowed to be used.

We hope there are sufficient landlords out there who are fair, but the reality is, and we know — and there are a number of cases cited; there have been cases cited by CERA, there have been cases cited by the Ontario Human Rights Commission — that this is not always going to happen.

I think there's a huge amount of fear out there among low-income tenants, and as Linda has pointed out, there's a huge amount of lack of information or misinformation about this. Add all of this and for us the equation is quite simple: You're going to have more people in the streets, you're going to have more people who will not have access to affordable accommodation. This is what this committee is supposed to be here today to address, because I think the outcome of this is going to be disastrous.

The Chair: Thank you very much, ladies, for coming.

MINTO DEVELOPMENTS INC

The Chair: The next presenter is Minto Developments Inc: Roger Greenberg, president, and Guy Godin, who I believe is a vice-president. Good morning, gentlemen.

Mr Roger Greenberg: Good morning, ladies and gentlemen. Thank you for allowing me an opportunity to appear before you today. My name is Roger Greenberg and I am the president of Minto Developments Inc. Beside me is my vice-president responsible for our rental property management group, Mr Guy Godin.

I see a number of familiar faces that were also members of this committee approximately one year ago when I made a presentation on the government's paper entitled Tenant Protection Legislation: New Directions for Discussion. For those of you I haven't seen before or met before, please allow me to outline briefly Minto's and my own credentials to appear today.

Minto is a fully integrated, family-owned real estate company headquartered in Ottawa with operations in the greater Toronto area and south Florida. I have been actively involved with the company for 15 years, the last six as president. In our 42 years in business we have built more than 45,000 homes of which some 15,000 are rental homes. We continue to own and manage in excess of 10,000 rental homes in Ottawa and a little over 1,500 rental homes in Florida. In addition, we are the managers of some 6,000 homes on behalf of other owners. In Ottawa-Carleton, Minto is the largest provider of rental housing, ranging from bachelor apartments all the way to four-bedroom homes, with a majority of units renting for less than \$650 per month.

I state these numbers not to be boastful, although I am fiercely proud of our company's accomplishments, but rather to demonstrate Minto's experience and my own personal knowledge of the industry I have chosen to make my life's work. I am not an economist, someone who claims to have a great understanding of how a developer operates yet has never heard the hammering from a framing crew as it builds a new house, never felt the dampness of newly formed concrete of a new apartment building, let alone ever had to worry about meeting a company payroll. Rather, I head up a team of some 700 dedicated individuals who are proud to work for a company whose motto is "Welcoming families for over 40 years." We consider our tenants to be our customers and treat them with respect. We work hard to meet their expectations.

As you might suspect, I am here today to state my company's support for Bill 96. However, our support for the bill is not unqualified. There are many areas where the government has unfortunately not had the courage to do what it said it was going to do while it was in opposition. It is not even doing what it said it was going to do in the early days when it came to power. That having been said, the current legislation represents a significant improvement over the existing Rent Control Act for the citizens of Ontario, landlords and tenants alike.

0950

Unfortunately, time constraints this morning do not allow me an opportunity to address in detail all my comments and suggestions regarding Bill 96. Rather, I wish to go on record as wholeheartedly endorsing the

positions put forward by the Fair Rental Policy Organization of Ontario. I do so not because the chair of Fair Rental happens to be my brother Alan, who had the pleasure of addressing your committee on June 19 — he looks a lot like me; people get us confused — rather, I want to address some of the misconceptions I have read in the press about the bill that are being propagated by various interest groups, some of which I must say I've heard again this morning.

(1) That Bill 96 eliminates rent control. Of course it does not. As I mentioned earlier, we own and manage some 1,500 rental units in Florida. Believe me, we do not experience anything like the kind of government regulation in the setting of rents there that we will here in Ontario. With Bill 96, we will have vacancy decontrol, but then recontrol. This is a far cry from the elimination of rent control.

(2) That the changes will result in massive rent increases for tenants, 20% or more across the board. This is utter nonsense. Rents in Ottawa have been falling in the last couple of years as our marketplace suffers the highest vacancy levels in the last 20 years. If anything, rents may gradually recover to their previous levels as the economy improves. Rather than making exaggerated claims, we should look to the experiences of other jurisdictions, such as Quebec and British Columbia, where vacancy decontrols exist, to put this myth to bed.

(3) That the Rent Control Act is the best means to ensure that capital repairs are undertaken by landlords. Surely our own province's experience of the last few years has clearly demonstrated the fallacy of this myth. Capital spending by landlords in the last five years has been marginal for all the reasons that we know about: the 2% dilution, the 3% cap, ridiculous deemed interest rates etc. The changes in Bill 96 on capital expenditures will allow real cost recovery where and when markets allow it, freeing landlords to make normal investment decisions.

Indeed, the experience of Minto is instructive. In the next two weeks, Minto will be announcing a three-year, \$25-million capital improvements program for our Ottawa portfolio. To be clear, this is an expenditure above and beyond what we normally spend to maintain our portfolio on a day-to-day basis. I'll leave it up to the economists to calculate how many hundreds of jobs such an expenditure will create. I know it's substantial. Bill 96 is one of the main reasons why we've got the confidence to make such a massive investment.

It highlights an important issue. With all the talk of the need to build new affordable housing, what often gets lost is a recognition that more than 95% of the rental stock which will house Ontarians in the year 2020 is in existence today. Preservation of this existing stock is clearly the critical issue for the future, not just the construction of new housing. Overall, Bill 96 represents a major improvement in the investment climate for landlords in this province.

(4) That Bill 96 makes it easier and faster to evict tenants on a variety of frivolous grounds. Whenever I see

this comment, I wonder if these people have read the same bill I did. The reality is that Bill 96 provides no new basis for evicting a tenant; the grounds are identical to those in the existing Landlord and Tenant Act. As for the timing, the notice requirements are virtually the same. All the government hopes to do is to reduce the time delay in actually getting a hearing. The tenant argument seems to be the exact opposite of the traditional wisdom that justice delayed is justice denied.

(5) That Bill 96 guts human rights protections in housing. Critics are suggesting that if sections 36 and 200 are included in the new legislation, hundreds of thousands of Ontarians will be thrown into the streets. My response is: Who's going to take their place? Are landlords going to allow their units to remain vacant?

Let's be clear: For as long as I can remember, Minto has used income criteria as one of the many measures to judge a tenant's suitability for a particular home. Yet we also have a large number of customers who are in receipt of public assistance. The two are not in conflict, nor do I believe that Minto has ever engaged in discriminating practices, either actually or constructively. Contrary to the critics' claims, the provisions of this bill will sustain the status quo, not alter it. There is no threat in these provisions to protected groups.

Finally, the absolute level of a prospective tenant's income is an important indication of that person's capability to handle the rent of that particular unit. What is not relevant is the source of that income. The issue is: How is a landlord to determine his or her customer's ability to pay? This is a fundamental principle for every businessperson.

(6) Finally, that the bill will do nothing to stimulate new rental construction. That is a very simplistic conclusion to take to a very complex problem facing our province today. As I've said publicly many times, and indeed to this very committee last year, government policy at all three levels, in a host of areas over the last 10 years, has completely shut down the construction of new private sector rental housing, a once vibrant segment of the housing market.

The Lampert report delivered to the government in 1996 clearly addressed the many areas that need reform: property taxes, equal application of the goods and services tax, development charges, the elimination of unnecessary regulation and red tape, and a rationalization of building codes. In and of itself, will Bill 96 stimulate new rental construction? Obviously not; however, ameliorating rent controls is an essential prerequisite to achieving new supply, though the cost issues I referred to earlier must be addressed as well. Bill 96 represents an important, symbolic first step to providing tenants with truly their best form of protection: choice, like they temporarily have in Ottawa-Carleton and a few other municipalities today.

I thank you for the opportunity to speak this morning. I'll be happy to try to answer any questions that members of the committee may have.

The Chair: Thank you, Mr Greenberg. Mr Marchese I'm sure will have some questions.

Mr Marchese: Mr Greenberg, I sure do. Like Mr Gilchrist, I don't know where to begin because you raised so many questions. I'll tackle the income criteria one first because it's of serious concern to many who are here. The government says in the new section that you can use income information — and it was legal before — but you can't use it to discriminate. That's the basis of the law. If you were to use income information, based on section 200, in a way that discriminates, you'd have a problem. How do you use income information that will not discriminate?

Mr Greenberg: Income information in and of itself is but one of many factors that we would use to judge whether a person is going to be able to afford the particular apartment which they are going to choose.

Mr Marchese: I understand that, but we have a problem. This government is saying they recognize that some people have used income information, and that's quite legal. But they've now said, "To make it safe for tenants, we're going to make it illegal for them to use it in a discriminatory way." My sense is that some of you use income information — why else would you use it? — to discriminate based on who you think is going to be able to pay. How are you going to use income information that will not be discriminatory? I'd like to understand that.

Mr Greenberg: As I said, we don't use income information in and of itself as a selective criteria. It is one of a basket of items that we use to determine whether a tenant is going to be able to afford the house they desire to select. It's one of many items. Tenant history is another item. In and of itself, if that were the only criterion, there perhaps could be a problem. But we want to be able to have that as part of a basket of items to look at.

1000

Mr Marchese: I understand you very clearly.

Your second point says: "That the changes will result in massive rent increases for tenants, 20% or more across the board." Somebody may have used that figure. We don't know how much that rent will go up, but I can guarantee rents will go up. It happened in New York when they removed rent controls. Capital repairs went down, harassment went up and rents went up 52%. We're not sure what's going to happen here by way of percentages, but I can guarantee, Mr Greenberg, the rents will go up. If tenants can't afford it now, they won't be able to afford it later. It'll get worse. Do you disagree with that?

Mr Greenberg: Who's going to occupy their units? If you say the tenants can't afford it and they have to move out, where are people going to come from to fill these units up?

Mr Marchese: Why do you, therefore, want to remove rent control? If rent control seems to be working now —

Mr Greenberg: It isn't.

Mr Marchese: Why would you want to remove them if rents are not going to go up?

Mr Greenberg: I didn't say rents won't go up. What I'm saying is, allow the market to operate; allow landlords

and tenants to choose freely what they want to do and let the market operate. You're suggesting that rents are going to go up and that people are going to move out and then the unit is going to sit vacant.

Mr Marchese: No, rents are going to go up and people will not be able to afford it — not move out; they will not be able to afford it. They can't afford it now and it's going to get worse later, is the point I make.

Mr Greenberg: Yet rents in Ottawa in the last little while have been going down. Why is it that rents have been going down with rent control? Because in Ottawa today we happen to have a market system that is operating as it should, but it's only for a limited period of time.

Mr Marchese: I see. In terms of the comment you make, "That the bill will do nothing to stimulate new rental construction," that's a comment I make on a regular basis. This does nothing for the stimulation of new supply, absolutely nothing.

The problem we've got is that you're not building these days because it costs too much and the person who would otherwise come and rent your place can't afford it. It's that kind of demand. It's a kind of affordability that would permit you to build, and you're not building because people can't afford it. Is that not the case?

Mr Greenberg: I find it very interesting, and I say this with the greatest of respect, when people such as you are trying to suggest why developers who have built many rental homes for many years would or would not do something. Yet you don't ask me. I'm telling you right now —

Mr Marchese: I'm referring to Mr Lampert.

Mr Greenberg: I'm referring to what my comments are. I am a developer. My company has built thousands of rental apartments. What I'm saying to you is that this is an important first step in getting new rental units built in this province.

Mr Marchese: I hear you. Mr Lampert says that first step is only worth \$200 out of that \$3,000 gap you have, unless this guy's wrong — he's an economist; he's one of theirs.

Mr Greenberg: It's the first step. But if you don't start somewhere, where are we going to go? Then everyone looks at each other and says, "We can't reduce realty taxes and eliminate the terrible discrimination."

Mr Marchese: That first step is only worth \$200 out of so many others that are much more complicated to get where you want to get to.

Mr Greenberg: It's a start.

Mr Marchese: It's not a start for tenants. It may be a start for you, but it's not going to help them, Mr Greenberg. Thanks for coming.

The Chair: In future, you people are going to have to stop interrupting each other, because the people who are trying to record all this will never get it all down. You're going to have to let one finish before the other starts.

Mr Marchese: Thank you, Mr Chair.

Mr Gilchrist: Thank you both for coming before us. It's most intriguing that Mr Marchese doesn't want to take

you at your word. Maybe he missed part of your presentation. I must say I'm very impressed: a \$25-million capital improvement program over and above your normal expenditures, all of which will go to the benefit of the tenants, presumably. The bottom line is that it totally and utterly rebuts everything Mr Marchese has been saying throughout these entire hearings, that no one will change their practice as a result of passing this bill. I thank you very much for proving him wrong.

Let me just ask your response, because he's suggested that we shouldn't start somewhere. Right: The finger-pointing should continue and tenants should continue to have a seven-year waiting list in Toronto. The Massachusetts Institute of Technology, a pretty respected group, reported on June 13, 1997:

"Those who envision catastrophe if rent regulations are undone can look to Massachusetts for reassurance. A rent control phase-out there is bringing more benefits and less disruption than expected. There has already been the creation of 2,500 new housing units," mostly rental, "the largest number of conventionally financed rental housing units since the beginning of rent control 25 years ago." And that's just in a couple of months after scrapping it.

Do you see other developers following your lead as greater confidence is restored in the marketplace that government will not interfere with the day-to-day affairs of your business?

Mr Greenberg: I do. To be fair, though this is an important symbolic first step, there is still much that needs to be done. Mr Marchese is correct in his analysis, in some measure, of the Lampert report, which indicates that there is an economic imbalance. These imbalances have been created by all three levels of government over the last 10 years. It did not happen overnight. It has gradually happened in a variety of areas. Your government has taken a few important first steps, not only with this legislation but with other pieces of legislation. I wish you had gone further. You know that I wish you had, for example, mandated local municipalities to eliminate the discriminatory impact of realty taxes. I don't believe tenants know that they pay two times the realty taxes that a similar homeowner would pay for an identical condominium unit.

Mr Gilchrist: Mr Greenberg, we've been trying to raise that point in every town and city we've gone to. I find it very interesting that there are no municipal politicians here speaking to us today. I think that's the first time I've ever come to Ottawa on a committee hearing and not had one of them out politicking. Maybe they're afraid to answer the questions on this issue.

The reality is that tenants all across Ontario are paying on average \$100 a month more property tax than if they were taxed at the same level as private homeowners, and municipalities have allowed that to be perpetuated. More important, all these groups that have come forward and suggested that the provincial government is the villain — I accept that; we've got thick skins — every one of them has told us they have never once raised the issue with their

municipal council. I would welcome your comments on whether you've ever been joined by all these other lobby groups in terms of making that point with the city council here and the regional government.

Mr Greenberg: To be honest, Mr Gilchrist, we have been making this point to municipal politicians since 1978. We have maintained a variety of lawsuits against all three governments to try and bring before the courts this terrible discriminatory practice. We have never been joined by any tenants' groups in this endeavour. It is something, though, that I intend to make as an election issue, if I'm able to, in the fall, because I think you have now clearly given that power to the local politicians to eliminate this terrible injustice.

Mr Gilchrist: Very briefly, because my time is up here: You have absolute willingness that this is a complete flow-through to the tenants; that if the property taxes go down, the benefit goes exclusively to the tenants in Ottawa and every city.

Mr Greenberg: Yes.

Mr Cleary: Thank you for your presentation. Do you, as a developer, see more activity in the conversion of rental units into condominiums?

Mr Greenberg: Some of the pieces of legislation are going to make it extremely difficult to allow for conversions. There are going to be actions by various local municipalities, such as Ottawa, which is relooking at its own policy and its official plan, that I think will significantly reduce the opportunity for tenants to purchase very affordable housing. I am in favour of the elimination of the prohibition of conversion of rental units into condominiums. I think it's an excellent opportunity for tenants to buy very affordable homes, and I hope that trend we've seen in Ottawa, where there have been, I'm going to guess, about half a dozen projects in the past two years that have gone through city council because our vacancy rate was in excess of the 3% threshold — I am hopeful that we'll see more examples of that situation taking place.

Mr Cleary: Do you think it'll be easier under this legislation, with the support of the local municipalities, to do that?

Mr Greenberg: It will be easier, yes.

Mr Cleary: It will be easier. Thank you.

Mr Chair: Thank you, sir, for coming.

Mr Wayne Wettlaufer (Kitchener): Mr Chair, on a point of order: Mr Marchese stated that in New York state rents are going up. I want to point out that on PrimeTime Live, ABC News, on February 19, 1997, it was stated that where there's rent control, landlords don't want to build. In unregulated cities like Dallas and Chicago lots of apartments are available, but in rent-controlled cities like New York you may have to bribe someone to get an apartment.

The Chair: That's a point, Mr Wettlaufer, but it's not a point of order.

1010

SOUTH OTTAWA LEGAL CLINIC

The Chair: The next presenter is Gary Stein, who is a staff lawyer with the South Ottawa Legal Clinic. Also with him is Melony Priest. Good morning.

Mr Gary Stein: Good morning. Thank you very much for inviting me to come speak to you today. I am a lawyer at the South Ottawa Legal Clinic. Melony Priest is a tenant in Ottawa. I'm going to speak first of all about some very specific problems that I see with the proposed legislation and then I will turn over some of the time to Melony to finish off, to talk about her specific direct problem that she has had as a tenant.

In my office there are three case workers. All of us do landlord and tenant work. We are the ones in the courts. We are the ones on the ground trying to resolve problems or, if necessary, appear before a judge and have it decided. We know how the system works now. I have reviewed these procedures. I have several problems with them which you've heard, I'm sure, over and over again, and I won't go over the litany of them except that I'd like to point out to you that the Legal Clinics' Housing Issues Committee has appeared before you. LCHIC has presented you with a brief. I support the proposals in that brief and would ask that you consider them carefully.

What I want to comment on are only certain specific issues that relate to access into the system for tenants, specifically, in one case, that deals only in Ottawa.

There are three problems I want to focus on. The first problem is the timing issue in the act in which tenants need to respond to a landlord's application for eviction. The second problem, the one I will focus on, is the duty counsel program that we have here in Ottawa in which tenants can get advice right at the courthouse door, and how, given the way you've structured the new system, we will not be able to maintain that program, which is hugely successful. I'll give you some of the statistics regarding that. Third, we'll refer to the suggested amendments to the Human Rights Code, which have been a major issue for your committee, and Melony Priest will speak directly to that issue.

First of all, on the timing of documents: I've already heard speakers here today refer to it. I won't go on at length except that the way the law is now written I think poses a major problem for tenants in simply trying to respond. You're requiring a written dispute, for one, as opposed to a written dispute or showing up or somehow communicating information to the new tribunal.

Second, by deeming documents to have been received within five days and then only giving a tenant five days in which to respond, I think there will be many instances in Ottawa, but particularly outside of Ottawa, in which tenants will simply not have the time to get a written dispute in, let alone have the opportunity to seek legal advice about their particular situation. I don't understand

why you have such strict time limits, especially given that you're focusing only on written disputes.

My recommendation would be that you recommend the legislation be amended to allow disputes in writing or simply by appearing, as the vast majority of tenants do now, or by faxing in a document, or perhaps even phoning in their dispute to a particular phone line. That way there is much less risk that there will be a default judgement issued against somebody, which takes a lot of energy and a lot of effort and sometimes money to overturn.

The other point is that the way the act is now written, it deems a document to be received within a certain period of time. I would ask the committee to consider the possibility of making that subject to a tenant's right to prove that they did not receive the document in that particular time period. I think it only makes sense.

I'm going to turn to the bones of what I wanted to talk about, which is the duty counsel program here in Ottawa. I'm duty counsel. I appear in the courts, as do all the case workers out of the Ottawa legal clinics. We are at the courts at the first-level hearing to ensure every single tenant has at least a couple of minutes of legal advice.

What has that meant? The statistics which the Ministry of Municipal Affairs and Housing has provided to us in its recent examination have shown that in Toronto, 63% of cases don't get past that first stage, so 37% do. In Ottawa, 93% don't. There's only 7% of all cases going on to the next level, which is trial.

Why the difference? I don't know of any particular difference between Toronto and Ottawa except for the fact that we have this ongoing duty counsel program where we are there right outside the courtroom door, present ourselves to the tenants and tell them they're entitled to have a few minutes of legal advice.

What do we do? We give advice. We give the landlords and their representatives — lawyers or agents — a knowledgeable person to deal with. We give the courts a resource person for landlord and tenant matters, as we would for the new tribunal. We also represent, of course, if need be, on that very day if there's an emergency before a judge.

This program has been in place since 1990. It's highly successful. We avoid unnecessary evictions. Importantly, we often re-establish the relationship between the landlord and the tenant. We ensure there are agreements made between them instead of sending it on to a trial. We ensure that tenants' rights are respected and, where necessary, enforced.

I think landlords' agents and landlords' lawyers who I see at the courthouse would agree that duty counsel is an effective program for them as well. It keeps the tenant in the unit. It reduces costs for everybody: for the tenant, of course, in possibly being evicted; for the landlords in having to potentially eat those costs that they cannot reclaim from tenants; also, it saves the landlord the cost of having to find new tenants for the particular unit; for the taxpayer, of course, because most claims get settled or get

resolved in some way because there is legal information available to the tenants.

There's no cost to the system for us. We have a budget. We don't charge any more. No one is paying us more than our usual salaries. There's no additional cost to the system of having duty counsel.

The other result of all this is that there is no delay in how the system works. In Ottawa, if you go to court today, you will have a trial in one week. That's what it's come down to. There have been ups and downs but now there's absolutely no delay and it's wrong to suggest that the system is now causing delays in Ottawa.

What is the problem? The problem is that the way you've set up your legislation doesn't provide for an entry point, a window, like you have under the current Landlord and Tenant Act. The way it works now is you've got a list that appears before a court official called a registrar, which you may know. Every single case must go on to that list. In Ottawa it happens on Tuesdays and Thursdays, mornings only. Duty counsel can be there. We've got the staff power to be there at the courthouse for those two or three hours, twice a week. This system is divided up between all the clinics in Ottawa. We've got a rotation to make sure there's always someone there.

The problem is the new system is not designed to have this window of opportunity. It's simply designed to have ongoing hearings. Unfortunately, Ottawa clinics don't have the staff to spend five days a week, all day, sitting at the tribunal waiting for tenants to come in to give them advice. We can't do that. We don't just do landlord and tenant. We cover a myriad of legal problems and there's no way we can afford that time.

We talked to the Ministry of Municipal Affairs and Housing officials very recently about this particular problem and asked, can they design a system, a practice, in Ottawa that would allow us to be there to give the legal advice so that problems can be easily resolved and evictions avoided if possible? The officials have told us it's not possible. They've said the legislation as it now is allows only straight to a hearing. They can't create a practice that would allow that to exist. The likely result, and I'm sorry to say this, is that the duty counsel program is likely to collapse. Tenants will not be able to get the advice there at the courthouse, which saves everybody costs.

1020

The most crucial thing I think is going to happen is there are going to be unnecessary evictions, even some illegal evictions. That's why duty counsel was set up in the first place, because there were unnecessary evictions and some evictions happening that were not going according to the rules. When we're there, we make sure the rules are followed. We enforce them. If we don't have some window where we can appear, then I'm afraid that's going to happen again.

My recommendation is simply to ask this committee to recommend legislation or regulation which would allow for a local procedure whereby all hearings would first

perhaps go to some type of pre-hearing appointment. Create some kind of list where people would need to appear or have settled a dispute prior to that date, so at least there is a time when we can be there to give tenants advice so they've got some way of accessing the system. Without that, I'm afraid we will not be able to participate at the same level we are now doing. I'm afraid that will lead to not only what I've referred to, but also backlogs, right away, in scheduling the hearings.

There is mediation available. Tenants are entitled to have mediation. That's been a pilot project. It's worked well in Ottawa, and with sufficient time in advance of hearings, it can work., as long as tenants, as well as landlords, have access to legal advice before they sign on the dotted line to an agreement negotiated by an independent mediator. The thing that's important is that mediation without the parties knowing what their legal rights are is meaningless. Mediators cannot give legal advice. That would be a conflict, for them to tell the tenants what their rights are. Without duty counsel or clinics providing that kind of advice there at the courtroom door, mediation is not going to work the way it's working now. It's not a substitute for proper legal advice.

The third point I want to refer to is the Human Rights Code amendment which is being proposed. I am concerned about it. I have the same concerns you've heard here today and yesterday and in your other appointments. I don't think it's appropriate to allow landlords to obtain income information, and Melony Priest will speak directly to that point. Before I turn it over to her, I'd just like to conclude by asking this committee to take seriously your role of hearing from the public, of hearing from tenants, to hear what they're saying, hear the actual specific proposals that are being recommended, and consider amending the law so it is not one-sided.

It is not fooling anybody to call the law the Tenant Protection Act now. It is not protecting tenants. I would urge you to take your responsibility seriously and to amend the law to make it more evenhanded, more balanced than it is now.

Ms Melony Priest: Good morning. I have been subjected to low-income discrimination by Minto here in Ottawa. I'm a single parent of a child with a disability. While living in Calgary my son and I had been forced to leave the armed forces housing we had been living in because my husband and I had separated. A year later, my son and I made our way across Canada to Ottawa. We shared a home with another couple until circumstances made it necessary for me to look for other living arrangements.

I found the perfect home for us. It wasn't an apartment. There wasn't a balcony. I didn't have to worry about him thrill-seeking to walk on the balcony railing. Our prospective home was a town house. It was in the same area I had been living in. It had large windows, a small yard, two large bedrooms and, best of all, I could afford it. I was receiving \$645 a month for rent from welfare in my previous place and this new home was only \$585 a month

plus utilities. My son would be able to stay in the same school. He would be able to walk to his French immersion school two blocks away. He would be able to come home for lunch. He was able to keep the same friends. Important things for a child who has lost his father, who was forced from his home and trying to cope with a disability. I have an R1 credit rating. I would like to read you a short letter of recommendation I tried to give to Minto.

The Chair: Excuse me. I just want to caution you on one thing. I know you have a lawyer beside you. While members enjoy parliamentary privileges and certain protections pursuant to the Legislative Assembly Act, it is unclear whether or not these privileges and protections extend to witnesses who appear before committees. For example, it may very well be that the testimony that you have given, or are about to give, could be used against you in a legal proceeding, so I caution you, as the Chair of this committee, to take that into consideration in making your comments. I know you have a lawyer with you but I just bring that to your attention.

Ms Priest: I understand.

The letter of recommendation:

"To Whom it May Concern:

"This letter is to recommend Melony Priest as a tenant for a suite or home. She is impeccable in her living habits and would enhance a property by living there. She is conscientious of her neighbours and respectful of their needs. Melony Priest rented from me for approximately four months when she decided to move to Ontario. She left her suite in a clean and rentable condition upon her departure. If you should require further information contact Heather Wentz, property manager at Daveco Holdings."

I asked the clerk to accept my application for consideration at Minto to rent the town house. Minto wouldn't accept my application. I was devastated. Another new school for my son. That meant three new schools in one year. I was emotionally drained trying to care for him and find a home. It became necessary for him to enter a program at the Royal Ottawa Hospital because of severe emotional problems. Please don't allow this minimum income criterion to become law. Please don't allow this to happen to other families that might be affected by a turn of circumstances such as a marriage breakdown.

Mr Lalonde: Thank you for coming down and taking the time to do this presentation this morning. A previous speaker mentioned a little while ago that the average cost for rental in his building was in the area of \$600. You just mentioned, Madam, that you moved from another part of this country to Ottawa and the cost at that time was \$580 a month, I believe it was that you mentioned. I don't know if you're aware what effect this removal of rent control would have to a person like yourself when you move to Ottawa or any other part of this province. The government will be allowed to increase the rent.

I know Minto is known to be a very good landlord, but still, they will have to recover the cost of any of those renovations that will be required. A family of two at the present time I believe is less than \$1,000 if you're on

social assistance. I don't know how the family or the seniors are going to be able to afford paying an increase in their rental at the present time.

How do you feel about this removal at the present time of the rent control and allowing the developer or the landlord to increase according to the renovation that will be done? Will you be able to afford being a single mother?

Ms Priest: I'm no longer on welfare. I was paying the \$645 a month here in Ottawa before I tried to get the other unit, but I find it very frightening that rents would rise that way, even on my income.

Mr Lalonde: Especially in the urban sector.

Ms Priest: Yes.

Mr Lalonde: Thank you.

The Chair: Thank you very much for your presentation this morning.

1030

CARLETON UNIVERSITY STUDENTS' ASSOCIATION

The Chair: The next presenter is the Carleton University Students' Association, Heidy Van Dyk, president. Good morning.

Ms Heidy Van Dyk: Good morning. My name is Heidy Van Dyk. I'm the president of the Carleton University Students' Association in Ottawa. Thank you very much for the opportunity to speak with you this morning and to address some concerns we have as a student organization about Bill 96, the Tenant Protection Act.

There are five main concerns that I want to talk to you about. The first is the ability for landowners to raise the rent of new or newly vacated buildings to market value; the second is maintenance of rental units; the third is the subletting practice; the fourth would be basement apartments; and the fifth would be the dispute resolution system.

When students move away from home to attend post-secondary institutions, often it's the first time they've lived apart from their parents and the first time they have to search on their own for housing. There are many things they have to take into consideration. They're looking for housing that is affordable on a fixed income, that is close to school, bus routes, laundromats, grocery stores, their friends, who are often their social network to survive at university or college; and they're looking for housing that is of high standard, a quiet, safe place where they can study.

If students have to concern themselves with dealing with a negligent or harassing landowner or deal with issues of maintenance requirements, these are things that can distract them from their studies, which is the main reason they have moved away from home in the first place.

The first concern we have about Bill 96, as I said, would be the ability of landowners to raise the rent of new or newly vacated rental units to market value. We would

like to propose that a maximum percentage by which a landowner can increase rental rates be applied.

The student population tends to be somewhat of a transient one, where students move away from home for eight months of the year and then go back to their permanent residence for the summer. The turnover rate of renters within the student population is relatively high. This leaves students very vulnerable to facing rent increase after rent increase every year. It could be difficult for students to find housing with acceptable living standards within rent that they can afford.

We also have concerns that landowners who might want to evict tenants or have them vacate the premises to be able to raise the rent would become harassing to students. If students were to face any sort of user fee to use the dispute resolution tribunal, then we are concerned that they would not do that and would instead be living in a harassing environment.

Second, we would like clarification on how a rental unit can be declared vacant in a shared accommodation situation. If there are four or five people living in a rental unit, which is very common within the student population, we would like to have it be absolutely clear that the landowner can only declare the rental unit vacant if all of the tenants have moved out.

In regard to maintenance, we feel it's very important that orders prohibiting rent increases remain in place so that student renters can ensure that necessary repairs are completed on a rental unit before they face rent increases. Second, we feel the tenant should be given the opportunity to give prior approval of the repair or capital expenditure before it is made if they are going to face a rent increase as a result. We have concerns that landowners would be going ahead and spending money for repairs on rental units that don't necessarily need to be made in order to be able to increase the rent of the unit.

As well, we feel it's very important that if utility prices that might be included in the rent go down, tenants have an opportunity for a rent decrease as a result of that. If utility prices increase on a rental unit, which would mean that tenants would be facing a rent increase, then we would like to make sure tenants are given proof that the utility prices have in fact gone up and that their rent has only been increased in the same proportion that the utility prices have increased.

Next I'd like to talk about the issue of sublets. This is a practice that is very common within the student renter population, a practice where if students find an apartment or house that they're happy with but they're going back home for the summer, they would like other tenants to move in and take over their lease for the summer.

We would like to see standard guidelines which stipulate the occasions on which a landowner can refuse to sublet an apartment. Examples that we think would be appropriate are if the current tenants have a history of not paying their rent or of damaging apartments at great length or if the landowner has serious concerns that the current tenants would not provide appropriate sublets.

As well, the current tenant is responsible for anything that happens once a subletter moves in. We don't really see why a landowner should have the right to refuse sublets when the current tenant is still going to be held responsible for any rent arrears or any damages or problems that arise.

The next issue is basement apartments. Basement apartments are often the most affordable for students, yet they can often have lower living standards. We would like to see some very clear legislation on basement apartments in order to stipulate definite health and safety standards, to ensure that students are not living in unacceptable conditions in order to have a rental unit they can afford.

Last I'd like to talk about the dispute resolution system. We have concerns that the proposed legislation would allow landlords to increase rents. We are worried that students could be living in harassing conditions or renting from people who are very negligent as far as repairs and maintenance to try to get student tenants to move so they can raise the rent. With this possibility, we would like to see a dispute resolution system that is very user-friendly, with absolutely no user fees.

We also have concerns about the ability of the tribunal to declare disputes to be frivolous or trivial. Students have a very difficult time in the rental market because they face the stigma that a lot of people don't want to rent to students because they're dirty or because they're noisy or because they don't pay the rent. Students are constantly having to fight those stigmas. As a result of that we have concerns that the tribunal would declare a lot of student complaints to be frivolous or trivial and they would never actually see any resolution of the situation.

In conclusion, we feel that the Tenant Protection Act is overly generous to landowners. We would like to see some amendments to it, such as some I have proposed today, to have it be a more fair and balanced system for both the tenants and the landowners. Thank you.

Mr Gilchrist: Thank you, Ms Van Dyk. We appreciate your coming forward this morning and particularly for making some specific suggestions on how the bill could be improved. That's what the hearings are all about. Let me just go through in sequence and invite a couple of comments or maybe answer some of your questions.

Vacancy decontrol: You ask about clarifying when a housing unit is vacant. There are two scenarios. If it's five students renting a house and they each have a separate lease to rent a room, only the room would be deemed vacant if one tenant moves out. On the other hand, if five students go together and sign a common lease to rent the entire house, you're absolutely protected. One tenant can move out; four of them can move out. As long as the fifth person is still there, it isn't vacant. Hopefully that clarifies that point.

Ms Van Dyk: Can I respond to that scenario?

Mr Gilchrist: Sure.

Ms Van Dyk: In the scenario where there would be a common lease with five students and all of them would have to move out in order for the dwelling to become

vacant, I hope the students continuing to live in the dwelling would be given ample opportunity to find another roommate or to have input on the time line in which they would have to completely fill the house. The concern I see is that if one person moved out there would be four people who would then have to cover the rent that five used to, which would then cause problems between the landlord and the tenants, which would again sort of lead to the four students remaining in the house to leave the house earlier than they might have anticipated.

1040

Mr Gilchrist: But that's no different than contract law today, and that's the difference: If students want to sign separate leases just for their room and the five of them wind up in effect having the whole house, that's fine. Then they have no obligation to worry about the others. If they want to go in as a group, then that's part of the responsibility of having taken on and signed that contract. Nothing in this bill will change that at all. So they will have no greater concerns.

I'd be more than happy to take back your suggestions about the conversions of houses and smaller units. You're the first person to raise that issue and I'd be more than happy to take it back. I think it would be best covered in the regulations that will define exactly what a renovation is and when a new unit is created, when it's an old unit fixed up and when they've actually spun it off into a different unit.

Subletting: The rules haven't changed from the existing Landlord and Tenant Act. The landlord cannot deny anything. The test there is that he cannot be unreasonable or arbitrary, so nothing in this bill changes the existing relationship if a tenant wishes to sublet.

Basement apartments: Absolutely, positively in this act, section 24(1), there is very explicit instruction to landlords that they must maintain health and safety standards, and you will have all the remedies available to you whether it's a basement apartment or anywhere else. Anyone who deviates from that, I don't think the bill could be clearer than it actually is, so hopefully you're protected there.

The dispute resolution system: We recognize that there's always that tradeoff. You don't want frivolous cases brought forward, which would be more likely if it were free and there was no cost to people, but you also don't want the cost to be very high. What will happen, though, is that the tribunal has the right to award costs. So if you genuinely believe you have a case, yes, you may have to come up with a few dollars for the filing fee, but you'll get those dollars back when the tribunal rules in your favour.

Finally, the repairs and capital expenditures: Absolutely, positively the tribunal will be able to rule. If you believe that the landlord has asked you to pay a rent increase for a repair that you don't think is reasonable, all you'll have to do is send that notice. As soon as you disagree with him, he'll have to apply to the tribunal, which means he pays the fees, and you'll have a chance to then go back and simply say, "We don't need a new air

conditioning system." The onus will be on him to prove to the tribunal that repairs are necessary and try to meet a municipal work order or some other test of essential services.

We don't have time for your other points, but we'll take those back. I appreciate your submission to us.

The Chair: I think there are a couple of more questions. We can't let you go yet.

Mr Lalonde: Thank you for making this presentation. You are concerned about the dispute resolution system at the present time. Do you feel that Bill 96 should allow for a mechanism that will allow people to be heard before it becomes an official complaint? This way students on low income or senior people would not have to deposit a certain fee for an official complaint, if within Bill 96 there would be a clause for a hearing before you proceed officially with the complaint.

Ms Van Dyk: That would be a very good idea and I think that would help address our concerns about the tribunal arbitrarily deciding that a student's complaint was frivolous or unnecessary.

Mr Lalonde: I do feel there should be protection for a landlord, because time means money. At times a lot of complaints are not valid, but all complaints should be heard. If there was a mechanism in place that would allow for a hearing, would you be in favour of it?

Ms Van Dyk: I think that would be a very good idea.

Mr Marchese: I have a question with respect to vacancy decontrol. I'm not sure that this is what you mean or intend by it and I'll raise the points so we'll see whether we have the same understanding of it.

Vacancy decontrol, in our view, will mean higher rents for most people. There's no doubt in my mind about that in spite of the fact that Mr Greenberg differs in this view, he and many others as landlords. I'm not sure I've heard other people make this suggestion, but because we don't know by how much rents will increase, many tenants are worried that there is no control in that regard. Is your first point suggesting that somehow this government should consider a cap as to what landlords could charge when the vacancy occurs? Is that what you mean by the first sentence?

Ms Van Dyk: Yes, that's what we would like to see. We would like to see some form of rent control stay in place. We're very concerned, because of the nature of student tenants, who tend not to stay in a unit for more than one year, that every year they come back to school they will be facing higher and higher rents that they simply cannot afford.

Mr Marchese: I find that a very useful suggestion. I'm not sure, the government hasn't commented on it and I was going to ask Mr Gilchrist to comment on that suggestion because he may have missed it, but I think it's a very useful thing for the government to consider. It may be something that is control and they may not want to pursue it, but I think it's something that they should consider very strongly. I'll try to bring it back if I can today.

The other matter of dispute resolution system: Mr Stein made a good point today. You must have been here for his presentation. He said that 93% of all cases get dealt with very expeditiously here in Ottawa and only 7% – I had heard 5% in the past – 5% to 7% are troublesome and require a more detailed consideration of the problem, but by and large the system works. One of the things he talked about was the duty counsel program. He suggests that the duty counsel program has probably expedited a lot of cases.

Do you have a comment in that regard with respect to that particular program and the fact that this government has got rid of that?

Ms Van Dyk: I think if there's a program in place that is accessible and affordable to students it should remain in place. As I mentioned earlier, students are constantly fighting against feelings that they're not good tenants, and when a dispute arises they have to prove themselves that much more, I think, than the average tenant. Often there aren't enough avenues they can go to for help. I'm not familiar with that particular program, but the statistics you've quoted me sound very good. If it is affordable and accessible to students, then I would very much like to see it remain in place.

The Chair: Thank you for coming, Ms Van Dyk.

STUDENT FEDERATION OF THE UNIVERSITY OF OTTAWA

The Chair: The next presenter is the Student Federation of the University of Ottawa, Nathalie Carrier, vice-president of external affairs. Good morning to you. I'll ask you to introduce the other speaker.

Ms Nathalie Carrier: This Alain Gauthier. He's the president of the Student Federation of the University of Ottawa.

My name is Nathalie Carrier. I'm presenting here on behalf of the students at the University of Ottawa. I'm sure you'll find that some points Heidi has highlighted are quite similar to ours.

Today we'll be focusing on five main points: rent increases, subletting, maintenance, the Human Rights Code, as well as another concern that we have. Before I start I want to highlight that I won't be reading right through the package, but there are some things we've highlighted about the realities of students in regard to being tenants.

Students have low or no incomes and the concept of student loans doesn't apply to the concept of income, which is the first problem students have. A lot of first-time renters don't have credit; they haven't yet established their credit. So on the basis of being a student, it is quite difficult to prove that you have good credit when you have no credit.

Student housing is substandard. It's dingy, it's dilapidated and it constitutes between 40% and 60% of a student's annual income. Students need housing that's conducive to studying. This includes quiet space free from disturbances,

harassment and substandard landlords. Students move an average of twice a year. Students pay, on average, \$3,400 a year in tuition, and \$600 in books. An average cost in Sandy Hill, which is the student slum area of Ottawa, is about \$350 a month, equalling about \$8,200, and the average student loan is \$9,000. That is just to give you a brief outline of where we're coming from in terms of being students.

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The first problem we had was the new tenant policy and how a landlord could increase the rent once a tenant leaves a particular unit. The problem we foresee with that is that students move, on average, twice a year, which means that students will move in in September and move back home in April. The concept of this rent raising could become a serious problem and could increase a lot faster in areas that are prominently dominated by students because of the rapid turnover in rental units.

Our recommendation on that is that in Quebec they have la Régie du logement, quite a similar act to what the government of Ontario is proposing. The government of Quebec in this particular area mandates landlords to tell new tenants what the previous rent was. We feel this is very important; it would influence market forces in a much stronger way because students would then have the right to negotiate. For example, if I'm paying \$375 a month and the previous tenant was paying \$300, then I have the right to know why that \$75 is there and I then have a bargaining tool. Not having this information permits the landlord to have the monopoly and the only bargaining tool in terms of this. If the landlord would be able to prove that he has put \$75 a month's worth of work into the place or has repainted or fixed the walls that were falling apart, students would then have a much better chance at bargaining and much better conditions in that sense.

The second problem we had with the act is in terms of subletting. Subletting is something that is quite evident to students. It happens every summer. If any of you go through the student-populated areas in the city, you'll notice that in the summertime you can get quite affordable rents. You can get places anywhere from \$100 to \$300 a month, and these are quite nice places. The reason students do this is because every April they will move out of their previous place and move either back or move to a different city to work. They'll sublet it to another student because they can't afford to cover the rent. The concept of a summer and a working term in the summer is to make money for school, so a lot of students can't afford to pay rent over the summer.

The problem we had with the act in terms of this is that there were no grounds established on which a landlord could refuse a subletter. It just said that the landlord had the right to refuse a subletter, should he or she choose to do so. We recommend that you establish grounds on which landlords would have the right to refuse subletters, because subletters are quite vital and crucial to student budgets, both for students subletting in the summer and for students needing to recover the cost of summer rental. The

academic term is eight months and we are often forced into one-year leases, so that's a problem.

The second one was in regard to the Human Rights Code. According to the proposed changes you're making, a landlord would have the right to check a student's income as well as a student's credit line. As previously established, most students don't have a credit line and have little or no income. We've already seen the government of Ontario tax us on anything we make over \$600, and that is being used against us right now in terms of our loans. The problem we have with that is that loans aren't considered income. A landlord could technically refuse a tenant who is a student because that student does not have an income; however, that student could be receiving a \$10,000 loan that year.

Our recommendation in regard to that is to remove that from the act and go in conjunction with the Human Rights Code and allow students to have the right and the opportunity to that. The second point we'd like to raise in regard to that is that there are students who are not only students but single parents and things like that. These are people who would be hit twice as hard. Presently, many students live below the poverty line. That's quite detrimental because it would prevent students from having access to proper living quarters, and that is a problem in terms of education. On top of that, we could use the argument that it costs the government a lot of money for students simply to stay in school, so if it's taking you an extra year because you've had problems with your landlords or because you're living in a horrible place or because you've gotten flooded, that costs the government twice.

Mr Alain Gauthier: I guess I get to continue. Another point that was brought up that we feel is important specifically for students is the entire issue of maintenance. We notice there are a lot of changes in the act in terms of trying to encourage landlords to upkeep their properties to a much higher standard than before.

In Sandy Hill alone 60% to 70% of the housing stock available for students is below even acceptable health standards. If an inspector were to walk in, the buildings could quite often simply be shut down. It's quite bad in many cases. We have to look at the fact that the government wishes to upgrade standards with a bit of a grain of salt because you've offloaded the responsibilities for enforcing those standards strictly to the municipalities.

I'm not saying that the whole issue of transfers from provincial to municipal and what not is not important, but in this case what is happening is that the municipalities already have quite a charge on their shoulders. To simply transfer provincial codes for these new standards to municipalities that don't have any more money than the provincial government has and don't have the resources in place to deal with that simply means it's quite often going to be set aside.

Already the city is supposed to enforce a couple of basic standards and they're having a hard time doing it simply because the funds aren't there. While we applaud

the intent of the act to create these higher standards and maintenance, offloading the enforcement to the municipalities in the way it's being done in the act is a guaranteed recipe for disaster. I don't think you're going to see the maintenance standards go up; you're going to see them go down, and considerably down, because of it.

We recommend that the committee review the act and the maintenance standards either by putting them back into provincial domain, making the provincial government responsible for the enforcement again, or that the municipalities should be getting some type of funds specifically for that to make sure they are upheld. The new standards look nice on paper in terms of the fines and penalties, but there's nothing there.

Probably the weakest point is that by removing the orders prohibiting rent increases that were in the previous act, the single best tool the government had to enforce the maintenance standards is gone. If it can no longer be said to landlords, "Unless you fix the windows gaping open in the middle of winter, we're not going to allow you to increase the rent on your property," you've got a problem, because there's no incentive there except through some process where you hope the city catches it and goes into it. It's not going to work.

We also strongly recommend that the new housing tribunal be required to create information pamphlets specifically on the maintenance standards expected of landlords and have those available in ministry offices and in as wide a distribution as possible. That's also one way to help.

Ms Carrier: If I can add something on that as well, students don't necessarily know their rights. Most of them are first-time renters, and a lot of them don't even know that there is such a thing as a Landlord and Tenant Act. Unless you're in law, it's very difficult. We would strongly encourage the government — either online or different things or allocate funds to student federations — to disseminate this information to first-time renters. It is important that students know their rights, and not everybody is willing to go and read the entire law. That is another serious concern for us, because otherwise you're just offloading it on student federations to promote this information for you.

Mr Gauthier: The last major concern we had with this — I'm sure many groups have testified in front of the committee with a host of concerns. In our case, when we looked at the actual law — going through it was no easy task, mind you — the landlord is entitled to increase the rent even above the guidelines when the cost of things like municipal taxes or the utilities go up significantly. Although in certain cases this increase must be made through a process, going to the tribunal etc, it is fairly automatic. If you look at the procedure, and it's similar in Quebec, with something like that, yes, your rent would go up and there's not much you can do about it. On the other hand, should these same taxes or utility bills go down, the tenants are in no way entitled to a rent reduction, which begets the interesting question of, why two standards?

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Normally, if your municipal tax bill goes up by \$1,000 a year, maybe there is a rationale for increasing the rents on your property, but if they go down \$1,000, I think there's also the responsibility, or at least the entitlement, to have some way of passing on those savings. Right now, while the landlord gets an automatic increase, the tenant is completely refused; there are no processes in this act for the tenant to get a rent reduction based on lower costs. To us, that's a dual standard that will particularly affect students, because a lot of the student housing in our areas come with heat, hydro and what not included, simply because they're old homes that have been converted into apartments or semi-apartments or what not. This is the prime population that's going to be impacted by this change. We think the government should seriously consider amending the act or changing it to allow the process to happen both ways.

Ms Carrier: On top of that, if things are being done within the tribunal area, that also incurs fees and different things. I know students who don't even buy their books because they can't afford to, so dishing out \$50 to try and sue your landlord is not even a reality for us.

In conclusion, there are a few things we wanted to say. The general perspective we had on it was that students weren't thought about at all, not to anyone's detriment, but trying to write something for everybody else, and everybody wants to be particular about some things.

We just wanted the committee to take a strong look at the fact that students are doubly hit. They're hit by tuition increases, they're hit by rent increases, they're hit by taxes on books. There should be somewhere where we could stay somewhat stable and that we can be assured about. Also, the concept of moving to a better area of the city isn't at all relevant to students. If you're saving \$50 because you're not living in Sandy Hill, then you're paying \$50 for a bus pass or whatever.

We also feel that the kinds of concerns we have could be dealt with, with a very minimal amount of effort and possibly a change here and there on certain things. That's not to downplay the amount of work you're putting into this. However, we don't feel they are drastic changes we are looking for, but simply a little more attention to the points we have raised here today.

That's about it. Thank you very much for your time.

The Chair: Good presentation. I can tell you, I'm a father of a university student and I've heard many of your concerns before. But I'm also aware that I'm supposed to be independent as Chair, so I won't pursue that. I'll allow other members of the committee to do that.

Mr Cleary: I'd like to thank you for the presentation. As the father of four who went to one type of university or another, I've heard a lot of the concerns too. I think you mentioned that you feel students are sometimes taken advantage of by the landlords, and then you commented a little bit on the dispute resolution system. I would like your comments a little bit more on the tribunal, whether you think that would be in your favour.

Ms Carrier: I think the tribunal is good for the entire province because it will definitely ease up the amount of time being used in courts, which can focus on something else. We have certain concerns about who sits on the tribunal, how impartial it is, concerns I'm sure you've heard from other people. In general, our major concern with that was the fees and costs related to it. That is one problem we have with the concept of the tribunal.

The second is in regard to information. If you don't know what your rights are, it's very difficult to fight for those rights and file a complaint and possibly get legal advice. That's where we're coming from as students, the fact that most students don't — I'll speak for myself. Until I read this document I didn't even know half the rights I had, and I've been renting for five years. I realize now that I've rented from some horrible people who weren't necessarily fulfilling their duties as landlords. That's the other concern we have, the amount of information students will get. That's our recommendation, to either provide funds to student federations or allocate specific funds to first-time renters so they get information. That is vital to us. Does that pretty much answer your question?

Mr Cleary: Yes, thank you.

Mr Marchese: Thank you both for coming.

Ms Carrier: Nice to see you again.

Mr Marchese: Me too. Students are not alone in not knowing their rights, as you would imagine. The majority of tenants, I suspect, have no clue about what their rights are, and no one helps them to understand them. When this government defunds a number of tenant groups that have been there to support them, they're on their own, essentially. Other than the few groups that are working voluntarily or are somehow getting some money from some sources to help tenants out, many of these people are in the dark, so it's pretty hard.

Ms Carrier: Do you need some water?

Mr Marchese: I'll get it in a second. You don't need to.

Ms Carrier: That's okay. I'm a student and a waitress. Sorry, there's no ice left, though.

Mr Marchese: This is what students have to do to survive, right?

Ms Carrier: We have to be extra nice to you because we'll be back at this table or at a different table later on and you might be there.

Mr Marchese: You're right.

On the utility increases, you correctly say that landlords can pass it on but you have no right to have access to it if there is a decrease. Others have mentioned that. It's a reasonable request. The parliamentary assistant is not here, but we're assuming that the other members who apply the principles of common sense generally will apply it in this regard as well.

Your suggestion on orders prohibiting rent increases has been mentioned by almost everybody. We're assuming they will apply common sense to that issue as well. I'm not convinced they will, but I hope they will listen to you in that regard.

The decontrolling of rents is going to be a serious problem for everybody. The rents have been up and they have always been higher than people have been able to afford, by and large. If these rents go higher, which we suspect they will — your salaries as students, or anybody else's, are not particularly high — I'm not sure how you're going to cope. I know you're not just speaking for yourselves; you're speaking for so many who are facing that particular problem.

The other student mentioned that there should be some controls when you decontrol the rents. When vacancy decontrol happens, we're not sure how high rents will go. The student before you said there should be some cap on that. I find that a reasonable suggestion. Do you agree?

Ms Carrier: We aren't particularly happy about the rent control cap being taken off. However, we're not extremely confident that it's not actually going to go through that way. The proposal we have made and what we stick to is that if a landlord was mandated to tell the new tenant what the previous tenant was paying, as they must in Quebec — in Quebec, although similar things are happening and rent is somewhat deregulated there, that maintains standards quite low, because tenants now have the right to negotiate. From our perspective, that is the point that we would rather — actually, we would much rather have a cap. If we could, we would much rather have a cap, because that ensures that regardless of who the landlord is, this is the maximum amount you could charge. We definitely agree with that.

However, we don't feel that's the way the government is going. Knowing that, we suggest that they mandate landlords to tell new tenants what the previous tenants were paying. In doing so, they would allow new tenants to know why there's an increase and negotiate on that. If there's a \$100 increase, "What have you done that I should be paying \$1,200 more a year than the previous tenant?" That would give the tenant a bargaining tool, and the landlord would then have to prove that he's actually done his job and put some work into the place or added a security system or replaced a window that was broken.

Mr Wettlaufer: Thank you both for appearing before the committee. I'm not going to try to patronize you. What I'm going to say is very sincere. The two of you are obviously very intelligent and you are indicative, I believe, of the quality of students that we have in this province. I think it speaks very well for the future of our people.

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Ms Carrier: Thank you very much.

Mr Wettlaufer: I mean that sincerely.

Mr Marchese: However —

Mr Wettlaufer: No "however's." You make a comment in your conclusion that it seems that the only concerned group consulted while the act was being written were landlords. This seems to be a misconception that many groups appearing before us have. I can tell you, I've been both a landlord and a tenant, and I didn't like being either. It's difficult.

The previous act was written from one perspective only, and that was the tenant's perspective. Many of the groups appearing before us have been tenants' groups and they are constantly saying that they have rights. I want to say that tenants are not the only ones who have rights. Landlords have rights too. Some of the tenants' groups have been asked what rights the landlords have. Of course, we haven't had a response yet. I might ask you, what rights do landlords have?

Ms Carrier: I would agree. I think maybe what you've sensed in the conclusion is a general disillusionment from students in regard to the government. Please don't take that personally.

There are some good things that we've found within that act in regard to landlords, in regard to tenants. I believe that what the government is trying to do is create a symbiotic relationship where tenants give and landlords give and they can live together.

However, I do believe that to a certain extent it is very much in favour of the landlord. The reason for that is because I think the act presents a lot of good, fundamental ideas. However, there are a lot of things that are lacking. For example, downloading on to municipalities to check maintenance and become the policing of that without additional budgets doesn't give us very much assurance that that will be done and that there's actually going to be landlord-tenant policing out there.

As far as landlords go, I would say that landlords have the right to provide good accommodations. They also have the right to be paid on time. They have the right to not necessarily be harassed, just as tenants have the right not to be harassed.

My landlord right now is wonderful. He's a wonderful old man who owns a pub and we sit down together and sing Irish songs. He does great stuff. He's a wonderful man. When we need things changed, he does it quickly and we respond by paying the rent. However, the place that I am presently living in is a fraternity house that is dilapidated. There are no locks on the doors, there are windows that are broken, there are bugs, you name it. In that case, on one hand, as tenants we're not exactly demanding very much from him, but on the other hand, I don't think anybody should have to live in those kinds of conditions.

I just found an apartment, so I'm right in the middle of this landlord-tenant thing. I visited houses where at the end of the day you end up at a place and you're like, "It isn't that bad. There's only four cockroaches in this place and the carpets aren't that stained," and you start lowering your standards of living tremendously. I would say it's a relationship that goes both ways.

Mr Gauthier: I'd agree.

Mr Wettlaufer: Would you say that the landlord —

The Chair: Mr Wettlaufer, we've run out of time, unfortunately. I know Mrs Munro wants to ask a question, but if we want to hear the other presenters, we have to cut you off. Thank you very much for one of the better presentations certainly that the Chair has heard.

QUEEN'S UNIVERSITY APARTMENT AND HOUSING SERVICES

The Chair: The next presentation is the Queen's University Apartment and Housing Services, David Wright, director, and Dianne Kelly. Good morning.

Mr David Wright: My name is David Wright and I'd like to thank you for the opportunity to address the committee. I'd like to introduce Ms Dianne Kelly, who is the executive assistant to the vice-principal of operations and finance at Queen's University. Ms Kelly will start our presentation this morning.

Ms Dianne Kelly: Our focus is quite narrow. You'll probably be delighted to hear that. We are following along with student-related issues, interestingly enough, but the focus here is purely the termination agreement provision and the impact that is going to have on Queen's University housing.

Queen's University is a residential university: 89% of its students come from outside the greater municipality of Kingston; 85% of first-year students are accommodated in dormitory accommodation. In Kingston, there is a viable private rental market to accommodate the more than 9,000 post-first-year students. Queen's supplies additional quality accommodation in close proximity to the Queen's campus and, in particular, accommodation for married students. This is in addition to the dormitory accommodation, which we recognize is exempt currently. Queen's operates 550 self-contained apartments and houses accommodating approximately 1,000 post-first-year students. These units accommodate couples, student families and singles.

Queen's has developed its student rental units with a particular focus on the age and needs of its tenant students. Projects are developed, located and designed with appropriate features targeting the student market. Queen's has adopted administrative procedures to assist student tenants in their transition to independent living and processes that ensure that the rental units are available for the normal student rental cycle. The Queen's student rental operation is administered by Queen's apartment and housing services, which reports to the dean of student affairs.

The university has established an apartment and housing board to advise the dean of student affairs on the operation of the apartment and housing service. That board membership includes student tenants, students who are not tenants and members of both the Queen's and Kingston communities. There is a consultative process which takes place, and the consultative process involves all major decisions regarding the operation of that apartment and housing service.

Queen's apartment and housing service rents its units for 12-month terms and it gears its rental terms to the demands of the students. The majority of the rental terms are from May 1 to April 31. This term is the most convenient for returning students, and most of those students will make arrangements in February or March of the year

before. They'll then have their lease run from May through April 31. The September 1 through August 31 term accommodates first-time students to Kingston and the Queen's campus.

In order for the student rental program to remain financially viable, the university must have consecutive 12-month leases. Accordingly, all students sign a termination agreement when they enter into the lease, agreeing that the lease will be terminated at the end of the 12-month term. If the students wish to stay on, they sign another 12-month lease, and so on. Students may stay a couple of years in Queen's rental units and their graduation usually coincides with the end of the 12-month term, at which time those vacated apartments are available for other students. Because they've signed a termination agreement, they must vacate at the end of that 12-month term.

If students were allowed to hold over on a month-to-month basis at the end of their first 12-month term, there would be three negative consequences for the housing service: (1) The university would have a reduced pool of units to allocate to incoming students; (2) the university would not be able to recover its student units from non-student tenants; and (3) the university would find itself with vacant units when the month-to-month tenants did vacate which it would be unable to lease. Since the university does not rent its units to non-student tenants, it would have to wait until May or September to lease those vacated units. The result would be an eight-month rental period, and such a short period of time is not financially viable for the university.

It is estimated that the result of this month-to-month tenancy would be to increase the vacancy rate from the current 1% to 2% to 25% during the year. The loss of revenue to the service would be in excess of \$500,000 a year. It would be impossible for the university to continue its student housing project given that kind of loss.

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The university has looked at the issue of the 12-month term, recognizing that many students find it difficult to carry their rental units over the summer term. Although the university assists those students in subletting and subletting is permitted, some students find it difficult to sublet.

Those issues have been recognized, and the working group studied and analysed the various possible options available. These are outlined in the written submissions. The options were to increase the rent for eight-month tenants and do various other things to try and recover the loss. The working group in the end decided that the 12-month term remained the most viable.

Section 37, as you are well aware, prohibits the use of the termination agreement if it's signed at the time the lease is signed or is required as a condition of entering into the lease. Without being able to use the termination agreement, the university will no longer be able to ensure that its units are rented only to students, which is the reason the university has this housing pool. It is not

interested in being in the rental business; it is not interested in being a landlord other than a landlord of its own students. It will be unable to allocate its student units at appropriate times. It will be unable to ensure that when students cease to be students on graduation, they will vacate. And from a financial point of view, it will be unable to ensure that it has a 12-month rental term.

We have two recommendations to suggest to this committee which are quite narrow in focus and we think could be quite easily achieved, and we hope this will be the result.

We would suggest that section 5, which is the section that incorporates exemptions, be amended to provide that section 37 of the act would not apply to university-owned student rental accommodation.

Alternatively, the university could be exempt under section 3 for its self-contained units, as are the dormitory-style accommodations currently. But we realize that this exemption is broader than we need and we would be satisfied with an exemption with regard to section 37 so that Queen's, which is a rather unique university because of the number of out-of-town students — those of you who have ever been to the Queen's campus know that the students live down around the campus — can continue with its housing service.

If there are any questions, I would direct you to David Wright, who is the director of the apartment and housing service. Thank you.

The Chair: Thank you, Mr Kelly and Ms Wright. I'm sure there are questions.

Mr Gilchrist: Unfortunately, the rules of procedure only allow us to speak in English and French, so I really can't say [Remarks in Gaelic]. Both the Chair and I are not only graduates but former clients of the housing at Queen's.

Thank you for your submission. I know you've had a chance to discuss it with staff. Let me just say we're quite keen to find a solution to this.

Personally, I think the section 37 amendment is probably more appropriate, because to do it in section 5 also exempts things such as the rent increases, and I don't think it's been part of your submission that Queen's needs any extra rights. We certainly don't want to create a second class of tenant, and you have not made that any part of your submission. I appreciate that.

I think if you would agree, we'll take that back to review, most appropriately under the regulations. It would seem appropriate to exempt university-owned student housing, particularly from subsection 37(3). I don't know if you have a copy of the bill in front of you. That's the section that says:

“(3) An agreement between a landlord and tenant to terminate a tenancy is void if it is entered into,

“(a) at the time the tenancy agreement is entered into; or

“(b) as a condition of entering into the tenancy agreement.”

That is the clause specifically related. I think you've made your case well, and we'll take that back.

I appreciate very much your taking the time to come up and make the presentation.

Mr Cleary: I have no questions, but I'd like to thank you for your comments. If the parliamentary assistant said he's going to solve your problems, we have no problem. Anyway, good luck.

The Chair: Thank you for coming.

The next delegation was to have been Levinson-Viner Ltd. We received a telephone call from the president of that company indicating that they would have difficulty attending this morning. Very kindly, one of the groups that was to appear later on this afternoon has agreed to take their place.

ACTION CENTRE FOR SOCIAL JUSTICE

The Chair: The Action Centre for Social Justice, Aline Akeson, who is the executive director, Lise Gervais and Valarie Gray. Good morning. Thank you for coming from this afternoon to this morning.

Ms Lise Gervais: I would like to take this opportunity to thank you all for listening to me. The experience I'm about to relate to you is my own but it is typical of many people in my situation.

The Chair: Could I ask that each of the speakers identify themselves?

Ms Gervais: My name is Lise Gervais and I'm a tenant. In April 1993 I responded to an advertisement in the Ottawa Citizen for a two-bedroom apartment located in Ottawa. The rent at the time was to be \$561, including utilities. At that time I was living in Navan, paying \$600 plus utilities, which made it over \$700 a month. At that time my rent allowance was \$600, including utilities, so I thought the apartment with this major commercial landlord for \$561 would be ideal.

I called them. The woman was quite pleasant and told me there were several units still available in that price range and she kept asking me how much money I made. At that time I was trying to start my business anew and I told her I was self-employed but I did not tell her how much money I made. She continued to be quite pleasant and wanted to know how many children I had and why I responded to this particular ad. Then she asked me finally how much money I made and I told her that I was on assistance. Right away her tone changed. She said: “Well, I'm sorry. If you're going to rent here you have to have a co-signer who makes more than \$30,000 a year.”

I was appalled by this because I knew I had a certain amount for rent and I knew I could meet it, and I told her this. I told her I had excellent references but she didn't care. They refused me housing because I was on assistance. When I asked her for the reason, she said it was because my income could not be verified. I had statements. I could prove I was paying rent. I had very good references. My landlord could tell you this. But she said no. I hung up the phone, very frustrated.

With my previous lease about to run out, I was forced to take an apartment in Vanier. It was for \$600 plus my heat and hydro. If I had been allowed to take the apartment for \$561, FBA would have saved on me alone \$40 a month. Multiply that by several hundred other people in this city who are refused decent housing. For me alone it was \$40 a month. I had to take this apartment for \$600. I had to pay my heat and hydro. The difference between what I ended up paying and what I would have paid with this developer was a total of \$3,000, which had to come out of my food allowance.

I called the Canadian Human Rights Commission and was told that this was not the level I needed. I told this to a friend and she suggested I call CERA.

The rent I ended up paying was more than 50% of my monthly allowance at that time, and I had a problem. I did not have a problem meeting the rent, but I had to depend on food banks and family to buy food and pay for my utilities.

I would like to now tell you some of the conditions I had to endure for 13 months in this apartment that I was forced to take. The locks were inadequate and didn't work. I had to replace them all myself. The trim around the fire exit was cracked and you could see outside through the crack. In the winter snow came in and frost built up. The entire two-bedroom apartment was heated with a space heater designed for one room. The seals around the windows and doors were damaged, crumbling and peeling. When I moved in there were dead mice in the cupboard and live ones came to visit once in a while. The wiring was hazardous and often caused shorts. When I called the fire department to come and inspect, they told me it wasn't that bad. I lived in constant fear of burning alive. The floors in my son's room were separated from the wall, which caused cold air to creep in constantly during the winter. The floors were tilted at a convenient angle which made all my furniture roll to the centre of the room.

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Finally, after 13 months I was accepted into subsidized housing. I pay 27% of my income. I have no problems meeting my rent. I am a good tenant. I respect other people's property. I was forced to live in conditions that I or my son never should have had to endure. Allowing landlords the right to accept tenants based on income is discriminatory. It is wrong, plain and simple, to refuse accommodations to someone based on their income. Everyone is deserving of common decency and respect. Just because someone is in receipt of government assistance, that does not make them irresponsible. We all want to live in decent accommodations. For many people on assistance, paying our rent takes first priority above everything else, even food.

I would like to throw this out to you: If you had a choice of taking 30% of a \$10,000 income or 30% of a \$25,000 income, what would you take?

The Chair: Does anyone else want to make any comments? I see three other people.

Mai: My experience —

The Chair: I'm sorry, could I have your name, please. The committee wishes your name so we know who we're speaking to.

Mai: My name is Mai. At that time I was on welfare and I looked for an apartment. I saw an apartment on Bronson, beside Somerset Street. I was so happy. I thought, "I can find one." I went to fill out the form. Then I phoned the landlord and I asked if the apartment was still available. She said yes. She said I had to pay first month and last month. Then I told her okay, but I had to say that I was on welfare and there is no guarantee from welfare for last month and first month. She said she couldn't rent to somebody who was on welfare assistance.

I still wanted to fill out the form, and I brought it to Housing Hhelp. Bob MacDonald helped me to fill it out. So I filled out the form because I knew I was a good tenant and never owed the landlord one penny. I always pay. At that time I had no apartment at all; I was homeless. Bob MacDonald helped me to fill it out, and he wrote a little note saying I was good tenant, that it's good to rent to me. I brought it there and that lady took my form and put it in the garbage. She was yelling: "Do you understand what I told you on the phone? I told you I don't rent to those on welfare assistance." I told her I understood that, but I thought if we met face to face she could understand me better and because I need an apartment so badly. I'm a good tenant and never owed a landlord one penny at all. I came back that time and my two kids were out of school because they weren't allowed to go to school because I had no address.

I asked my brother, who stays with roommates. We had eight people in just one room. I came out of that building. It was my idea to go back to Housing Help to tell them I couldn't find an apartment because they won't rent to me. I felt at that time, it was my idea, that I had no hope; I didn't know where to go. My kids had no school, nothing, no friends. I was hurting so badly and I didn't know where to go. I felt the landlord was discriminating against poor people and discriminating against those on welfare.

People on welfare are not mean and that they don't like to work. I like to work very much but I can't find a job. I moved from Sudbury to Ottawa because I would like to have a job. I came to look for a job. I left my apartment there. Two days ago I had a call from CERA and they said the government can't do anything about that. But I feel the government is supposed to do something about this. I don't agree with the landlord's behaviour. I don't agree with that.

In Canada here I can see a lot of people who are on welfare and poor. I tried to look for a job; I can't find a job. Thank you so much.

Ms Valarie Gray: My name is Valarie Gray. I'd like to take this opportunity to thank you for listening to me today. I'm currently receiving social assistance with my four children, who are suffering from the discrimination I have suffered from. My husband is working part-time. We get \$1,371 a month and he is making \$600 a month. That

puts our income at \$1,971. I'm currently renting a house and paying \$900 a month and I also have to pay hydro and oil. I receive a shelter allowance of \$673 a month. I have to take \$227 away from bills and food to be able to pay the rent so I can have a good roof over the children's heads.

Due to the discrimination I have received in the past, I am unable to rent a cheaper place, because my income is not high enough. I have been refused a four-bedroom semi-detached house for \$875 per month because I was receiving social assistance. I have also checked with Minto on renting a four-bedroom town house and they told me my income had to be \$28,000 or higher. My personal opinion is that instead of using income — as you can see my income is not high; I am paying \$900 a month. I just signed a lease last night to be there for another year with a \$25-a-month increase. I think references should be a top priority.

Just because you have a low income does not mean that you cannot pay a higher amount of rent. I don't feel that the discrimination about income is fair. Also, tenants like myself, if I don't feel I can afford to pay the rent on the place I am applying for, then why would I bother applying to begin with? Thank you.

Ms Aline Akesson: I'm Aline Akesson and I'm with the Action Centre for Social Justice. I was very pleased when we were able to meet with these women because you hardly ever hear that story. People are so busy looking for housing, moving from place to place that I really want to say thank you for coming out and speaking on behalf of a lot of women who are in your situation.

1140

I'd just like to wrap it up. The action centre deals more with poverty issues than housing, because we have such fine housing people in the city of Ottawa. I'd just like to read you a little thing around what we believe about human rights and what you need to do at the provincial level.

Section 200 allows landlords to refuse tenants based on income information. A disaster looms for low-income and working poor households. If landlords are allowed to disqualify applicants for rental housing on the basis of arbitrary income levels with no further social housing being produced and the private rental market taking steps to cream their tenants, it can be said that the housing situation will become truly desperate for thousands of families in the Ottawa-Carleton area. Social assistance recipients, who make up approximately one third of the rental market, will automatically be disqualified under this legislation.

It can easily be imagined that the next step will be to have applicants for rental units prove they have secure incomes before being able to rent a unit. In the present economy, where job security is declining for everyone except a select group of high-tech professionals, security of employment is rapidly disappearing. Part-time and contract employment is rapidly growing and even persons with adequate income may soon be declined rental tenure.

The choice of affordability for even the minimum ability to achieve rental tenure, even if you have the income to afford rents, is threatened by the principles being supported in Bill 96 amendments to the Human Rights Code. One wonders just who had the right to be human under this philosophy of this new legislation.

Under the legislation, a person who has a good credit history and a record of paying rent can be denied a unit if their current income is deemed to be too low, or perhaps their current employment is seen as not being secure. It goes beyond the principle of the right of a landlord to rent to financially responsible people and allows them to decide that a significant proportion of the population below a certain income level is inherently not worthy of housing.

The chief commissioner of the Human Rights Commission of Ontario, Keith Norton, a Harris appointee, has condemned these amendments in the strongest terms, and publicly. The implications of this legislation for a society with any pretence to equality and caring are immense. One can only hope that the blind ideologues within the Harris government will come to their senses before Ontario becomes a truly frightening place for all people to live.

The Chair: I regret to tell you that you have two minutes.

Ms Akesson: I'm finished. Just give me a second.

We must work together to help each other. If we don't work together to develop new ways to live, people will become even more divided and we truly will be a society at war with ourselves. We really want you to take a look at the human rights aspects of what's going on with all these changes.

The Chair: We have an opportunity for one question from the committee.

Mrs Munro: Thank you very much. I want to be on record as making note of the fact that you have brought to us those people who have had the personal experience that we certainly want to hear and want to recognize.

The issue you've raised is obviously a problem under the current legislation. The evidence you've provided clearly demonstrates the fact that there are changes that must be made. I want to just draw your attention to the actual piece in the legislation. First of all there is no suggestion in that legislation that 30% is there, so it's not in the legislation.

The second thing is that clearly, by the wording of the legislation, there is specific reference to the fact that it is not grounds for discrimination. Because of your circumstances, that is, the collective experience, I want to ask you about whether you see tenant history or credit rating as being a legitimate thing for potential landlords to inquire about.

Ms Gervais: I don't feel the fact of whether I have outstanding debts has anything to do with whether I can pay my rent. My rent is the very first thing I pay, above and beyond everything else, and then whatever I have left is divided among whatever is left.

The Chair: I know we could go on, but the time has expired. Thank you very much for coming.

COMMUNITY LEGAL SERVICES OF
OTTAWA-CARLETON

CLINIQUE JURIDIQUE COMMUNAUTAIRE
D'OTTAWA-CARLETON

The Chair: The final presentation this morning is Community Legal Services of Ottawa-Carleton: Daniel Gagnon, community legal worker, and Michel Landry. Bonjour.

M. Michel Landry : Bonjour. Je suis Michel Landry. J'ai à mes côtés Daniel Gagnon. Je suis avocat et co-directeur à la clinique juridique communautaire de l'Université d'Ottawa. Daniel, comme vous l'avez mentionné, est travailleur en matière juridique à la clinique communautaire d'Ottawa-Carleton. Nous avons décidé de faire une présentation ensemble parce que les deux cliniques, avec les deux autres cliniques de la région d'Ottawa-Carleton, représentent plusieurs locataires.

Most of our presentation will be done in French. Therefore, for those who need interpretation, I would encourage you to take the proper devices.

Ce matin je tenterai de faire un point particulier. C'est la question d'utilisation des formulaires en langage lisible, clair, dans les deux langues officielles des tribunaux de l'Ontario, et certainement l'utilisation efficace du français au sein du ministère du Logement.

Before I get into my main issue, which is the need for English and French forms in clear language and the need for adequate services in both official languages of Ontario's courts, I want to express the Ottawa clinic's concerns that the Legislature did not use the opportunity of its overhaul of the Landlord and Tenant Act to provide some form of protection for women tenants who are being abused in violent co-tenant situations. As Ms Lori Pope of our clinic had noted last year in her submissions to this committee, the Landlord and Tenant Act does not provide any way for tenants to take direct action against someone who is endangering their safety or who has committed an illegal act against them.

As noted previously, common-law couples are not eligible for Family Law Act remedy of an order of exclusive possession of the matrimonial home. Therefore, unless a landlord cooperates — and many feel this is a private matter, so they don't want to concern themselves with this — nothing can be done. We are very concerned that the Legislature has failed to change the law to allow victims of violence to protect themselves within the context of the Landlord and Tenant Act or the new Tenant Protection Act.

Mon point principal est sur la question des formulaires lisibles dans les deux langues officielles. Les formulaires qui sont prescrits par la présente loi sont écrits dans un langage archaïque et qui porte souvent à confusion même en anglais. Quand la traduction française d'un document

est illisible en anglais, ceci porte doublement confusion à la version française. À notre avis, le langage ambigu de ces formulaires a apporté des désavantages importants, surtout pour les locataires.

Un exemple de cette ambiguïté est noté à la formule 4, l'avis de résiliation anticipée, donnée par le locateur en cas de non-paiement du loyer. Vous êtes probablement très familiers avec la formule 4 ; c'est la formule la plus utilisée dans le domaine.

1150

Le langage utilisé dans la formule 4, autant en français qu'en anglais, porte vraiment confusion à nos clients locataires, qui pensent qu'ils doivent quitter leur logement dès la date inscrite dans le document. On dit, «Vous devez payer à l'intérieur de 14 jours, sinon on vous amène en audience.» La part des clients pensent qu'ils doivent à l'intérieur de 14 jours quitter les lieux. Donc, on a eu un problème sérieux dans le passé où les locataires ont quitté tout simplement les lieux. Pourquoi ? Parce que le formulaire, à notre avis, n'est pas clair, car le formulaire induit en erreur. Si on regarde la formule, la première partie dit ce qui suit : «Avis vous est donné que vous devez remettre la libre possession et occupation des lieux», et ensuite on met une espace pour l'adresse, «qui m'appartiennent et que vous détenez à titre de locataire», et encore une fois on met une espace qui indique que le locataire doit quitter à telle date, «en raison de non-paiement du loyer».

C'est seulement à la prochaine ligne qu'on indique que le locataire a 14 jours de la réception de l'avis pour payer son loyer et éviter la résiliation. Le formulaire en anglais pose le même problème.

Beaucoup de nos clients à travers des cliniques qui ne lisent pas ou qui lisent très peu le français ou l'anglais croient que ceci veut dire qu'ils doivent quitter les lieux dans les 14 jours de la réception de ce document, et beaucoup de ces clients, ces locataires, verront à quitter les lieux. Ce qui arrive c'est que finalement ils vont quitter les lieux, il va y avoir un jugement par défaut noté contre eux, et suite au jugement par défaut, on verra aller poursuivre bien souvent en cour des petites créances.

Même si au bas de la page, au bas de chaque document il y a un avis, bien souvent on ne comprend pas l'avis à cause de l'ambiguïté du langage. On devrait dire quelque chose de très simple. Dans tous les documents que le ministère, en vertu de sa nouvelle loi, va émettre, il faut vraiment que le langage soit lisible, ce qu'on appelle en anglais «plain language». Il est très important que toute la documentation qui est présentée, autant pour les propriétaires que pour les locataires, se fasse de façon lisible, de façon claire, nette et précise.

Donc, en raison du langage du formulaire 4, et de l'ensemble des formulaires, je dirais, notre expérience à la clinique et dans l'ensemble des cliniques communautaires à travers la province est que les locataires quittent de façon trop rapide leurs lieux sans vraiment percevoir leurs propres droits.

Donc, en conclusion, il est primordial que le langage dans les formulaires soit lisible — encore une fois, «plain language» — clair, précis, concis, et ce dans les deux langues officielles des tribunaux de l'Ontario. Pour les locataires qui ne comprennent ni l'anglais ni le français, on souhaite même qu'il y ait possibilité d'avoir une traduction dans les langues utilisées dans les centres urbains, par exemple, où il y a une grande population de nouveaux arrivants, d'avoir même une traduction au sein des bureaux régionaux du ministère.

Un autre dernier point sur les formulaires, et ceci n'a pas été mentionné aujourd'hui et je ne sais pas si on voulait le mentionner dans le passé, c'est la question d'avoir un bail standard déjà préétabli, encore une fois dans un langage simple et précis. À notre avis, ce serait d'une grande utilité et pour les propriétaires et pour les locataires. On suivrait la loi telle que la loi est prescrite. Ça devient aussi un outil d'éducation où les locataires vont savoir exactement, sur le bail, leurs droits. La même chose en est pour les propriétaires. Donc, ça faciliterait de beaucoup la tâche. Il y a plusieurs juridictions au Canada qui ont adopté un bail standard, je pense dans notre province voisine, et ceci nous serait très utile.

Mon dernier point est au niveau des services en français. À notre avis, il est primordial que les services en français se poursuivent au sein du ministère du Logement. Je pense qu'on a un ministère qui a quand même démontré une ouverture au niveau des services en français dans la province. Une chose qui est primordiale avec tous les changements qui s'en viennent au sein de ce ministère : il est important d'avoir des personnes cadres francophones qui connaissent bien les besoins des francophones dans l'est ontarien, dans le nord ontarien et partout. Donc, c'est important. Ça ne s'applique pas au sein de la loi, mais le comité devrait fortement recommander d'avoir des personnes cadres qui connaissent bien le milieu francophone. Là-dessus, j'ai déjà trop parlé. Je vais laisser la parole à mon confrère Daniel Gagnon.

M. Daniel Gagnon : Je m'appelle Daniel Gagnon. Je suis ici au nom de la Clinique juridique communautaire du centre-ville d'Ottawa. Comme les trois autres cliniques juridiques qui vous ont adressé la parole aujourd'hui, la Clinique juridique du centre-ville d'Ottawa ne représente que des gens à faible revenu, dont la grande majorité sont des locataires. En plus, le gros du travail fait à la clinique juridique touche sur la location mobilière, et sur un ton encore plus personnel, je suis moi-même un locataire. Alors, comme vous le voyez, ce projet de loi 96 est quelque chose qui affectera non seulement ma vie personnelle mais aussi celle de mes clients. Cette loi me cause beaucoup, beaucoup de soucis.

Notre clinique juridique appuie fortement le document qui a été préparé par LCHIC, the Legal Clinics' Housing Issues Committee. J'aimerais relever pour vous deux points mentionnés dans ce rapport : premièrement, la section qui adresse la façon dont un propriétaire peut disposer des biens personnels d'un locataire ; et

deuxièmement, la façon dont fonctionnera le tribunal qui a pour but de gérer ce projet de loi.

Avec ces deux exemples, j'aimerais démontrer que si des règlements très précis ne sont pas rajoutés à cette loi, ce projet de loi sera non seulement inefficace, mais servira de carte blanche aux propriétaires sans scrupules. Ceci me fait très peur.

Depuis 1970 il est illégal pour un propriétaire de prendre possession des biens d'un locataire pour non-paiement du loyer, mais sous le projet de loi 96, un propriétaire aura maintenant le droit d'avoir accès et contrôle des biens d'un locataire lorsque ce dernier (1) quitte son appartement à la suite d'un ordre de la cour, (2) abandonne son appartement, ou (3) ce locataire finit par mourir. Regardons de plus près chacun de ces scénarios.

Dans le premier cas, lorsqu'un locataire quitte son appartement à la suite d'un avis de résiliation ou d'un ordre de la cour, un propriétaire peut prendre immédiatement possession de tous les biens du locataire sans être dans l'obligation de faire un compte rendu. Un propriétaire peut donc prendre les biens pour lui-même, les vendre ou même les jeter à la poubelle.

Ceci me fait très peur, car dans mon métier je vois toutes les semaines des locataires venir frapper à notre porte qui arrivent tout juste d'être expulsés par le shérif. Souvent ces locataires sont pris au dépourvu car ils n'avaient aucune idée que leur propriétaire avait entamé un procès juridique contre eux. À maintes reprises nous voyons des propriétaires ne pas servir des documents de la cour à leur locataire pour pouvoir ainsi obtenir un ordre non contesté. Pour d'autres locataires, malgré le fait qu'ils ont reçu un avis d'expulsion, ils ne comprennent pas l'importance de ce document car ils sont illettrés ou mal éduqués en cette matière.

Qu'importe la raison, dans la grande majorité des cas un propriétaire aujourd'hui sait très bien qu'il est illégal de prendre possession des biens d'un locataire. Présentement, un propriétaire se contente uniquement de reprendre possession de l'appartement. Or, j'ai bien peur que ce projet de loi 96 ne fera que motiver un propriétaire sans scrupules d'expulser un locataire et de s'accaparer de ses biens. Et des propriétaires sans scrupules, mes amis, il y en a. Il en existe beaucoup. Vous n'avez que faire une randonnée pédestre le long de la basse-ville de Vanier et du centre-ville d'Ottawa pour constater qu'il y a des propriétaires qui ne respectent pas les droits et leurs obligations.

Dans le deuxième scénario, lorsqu'un locataire abandonne son appartement, un propriétaire doit attendre 30 jours avant de prendre possession de ses biens personnels. Il m'est difficile de comprendre pourquoi un locataire qui est expulsé par un ordre de la cour aurait moins de droit vis-à-vis ses biens comparé à celui d'un locataire qui abandonne son appartement. Cette section de la loi a besoin de clarté dans son raisonnement ainsi que des sauvegardes contre les abus d'un propriétaire.

1200

Je me rappellerai toujours la première année quand j'ai travaillé à la clinique juridique communautaire. Nous approchions les fêtes de Noël et une locataire avait payé par chèque postdaté son loyer pour les mois de novembre et décembre. Elle avait aussi avisé son propriétaire qu'elle partait en vacances pour deux mois pour aller visiter sa famille, qu'elle n'avait pas vue depuis 10 ans. Une tante lui avez payé ses dépenses de voyage comme cadeau de Noël. À son retour, le fils du propriétaire avait reloué son appartement à un autre locataire. Le propriétaire, qui lui aussi était parti en vacances, avait oublié d'aviser son fils que la locataire avait payé son loyer. Le fils avait donc tenu pour acquis que la locataire n'avait pas payé son loyer et qu'elle avait abandonné son appartement, malgré le fait que ses biens étaient à l'intérieur de l'appartement.

Sous le projet de loi 96, non seulement cette locataire aurait-elle été expulsée illégalement de son appartement, mais tous ses biens auraient été vendus ou même jetés à la poubelle. Ce projet de loi ne protège pas les droits des locataires.

Dans le troisième scénario, si un locataire meurt, c'est la succession qui devient automatiquement responsable des biens personnels du locataire. Mais sous le projet de loi 96, si la succession n'a pas pris possession des biens dans l'espace de 30 jours, le propriétaire peut prendre les biens personnels du locataire. Comme un préalable, un propriétaire peut garder ou vendre les biens du locataire sans être dans l'obligation de faire aucun compte rendu de quoi que ce soit. Si dans 60 jours la succession finit par réclamer les biens, le propriétaire doit retourner les biens qu'il a gardés et retourner toute somme d'argent faite avec la vente de ces biens.

Le problème ici c'est que, encore une fois, il n'existe aucun règlement en ce qui concerne la vente des biens d'un locataire. Il n'existe aucune obligation pour le propriétaire de faire de la publicité pour la vente des biens. Il n'existe aucune obligation pour le propriétaire de vendre les biens au plus offrant. Il n'existe aucune obligation pour le propriétaire d'obtenir la valeur réelle des biens personnels. Il est donc possible sous cette loi pour un propriétaire de vendre à son meilleur ami la grosse télévision en couleurs du locataire pour la somme de cinq dollars. Si jamais la succession contacte le propriétaire après la vente de la télévision, le propriétaire sera obligé de remettre la somme de cinq dollars, c'est tout.

J'aimerais vous rappeler que cette loi n'oblige en aucune façon un propriétaire d'avertir la succession du décès du locataire. Cette loi ne protégera pas les locataires.

Dans mon point final j'aimerais soulever aussi le fonctionnement du tribunal. J'ai un document à vous faire circuler.

The Chair: Malheureusement, nous avons seulement trois minutes.

M. Gagnon : Ça va. Je ferai ça très rapidement. Nous avons obtenu ce document à travers d'autres membres de

la clinique juridique communautaire. Malheureusement, le projet de loi 96 n'apporte aucune explication sur le processus de fonctionnement d'un tribunal, à l'exception de mentionner qu'il va y avoir des règlements qui seront peut-être discutés ou gérés plus tard. Ceci est le seul document que nous avons devant nous qui parle du fonctionnement du tribunal.

Si vous regardez très bien, il mentionne le temps qu'un propriétaire doit apporter pour une motion ou une application et le temps qu'il a pour un procès. Alors, comme un exemple, si un locataire veut apporter une application à la cour ou au tribunal pour un manque de réparations, on lui alloue seulement 40 minutes. Dans mon expérience de travail, ça demande trois à quatre ou même cinq heures pour pouvoir faire correctement un procès de ce genre. Quarante minutes, ce n'est pas assez.

Donc, je pourrais continuer, mais en conclusion j'aimerais vous demander de bien regarder ces règlements, de faire attention qu'ils respectent les droits des locataires et, une fois qu'il seront gérés et écrits, de bien nous aviser pour qu'on puisse les étudier et apporter nos commentaires et que l'on puisse vous laisser savoir si c'est raisonnable.

Merci beaucoup.

The Chair: Nous n'avons pas le temps pour des questions. Merci.

Ladies and gentlemen, that concludes the presentations for this morning. I wish to remind the members that checkout time for their hotel is 2 o'clock, so you must be out by that time.

This meeting is recessed until 1:30 this afternoon.

The committee recessed from 1206 to 1332.

OTTAWA REGION LANDLORDS ASSOCIATION

The Chair: Good afternoon, ladies and gentlemen. I'll resume with the proceedings from this morning. The first presenter is the Ottawa Region Landlords Association and I have three presenters: Valerie Wiseman, Joy Overtveld and Bonnie Hawkins. Good afternoon. You may proceed when ready.

Ms Valerie Wiseman: I'm Valerie Wiseman from the Ottawa Region Landlords Association. The association is 10 years old this year. We spoke to you last year about harassment and chronically depressed rents. Thanks for inviting us back. I have with me today a landlord who will speak to you about her personal situation and a lawyer, Joy Overtveld, who will suggest specific solutions for mobile home parks and more general changes for all landlords in the draft legislation. There is information about ORLA and the presenters in the written submission on the first page.

The average landlord is not what people think: 46% of Canadian landlords are 50 and over; 40% of Canadian landlords are women; 51% of Canadian landlords have a total income from all sources of \$30,000 per year or less.

Almost half a million people in Ontario are landlords. This means that about one out of every six voters in this province and region is a landlord or the spouse of one.

There are about 50,000 landlords in the Ottawa area, so typical landlords are tradespeople, retirees, pensioners, young families with mortgages, visible minorities and a large proportion of women. The only major difference between them and their tenants is that they tend to have a more permanent personal connection to the local community tied by property ownership, whereas the tenant population is more transient.

ORLA knows these statistics all too well, because we receive many calls every day from people just like this. Right now there are many who are desperately trying to keep their businesses afloat. Let me introduce you to one such typical landlord. She is not unique. Her name is Bonnie Hawkins and she runs a mobile home park in Smiths Falls.

Mrs Bonnie Hawkins: Hi, I'm Bonnie Hawkins and I'm here today because I heard when Mike Harris got elected that Ontario was open for business. I still hope this is true.

I'm a mother of two young children and the owner, along with my husband, of a 26-unit mobile home park in Smiths Falls. My husband is an electrician, currently unemployed. We purchased the mobile home park in 1992 under a power of sale for the long-term investment and hopes to expand. It's been nothing but a financial disaster. Everything we own is now for sale. We would be all right financially if we did not own this park. We are both self-employed small business people, started out with a lot of ambition, but with all the legal battles our finances and our drive are fading fast.

Upon getting our first tax bill, it was extremely high. We found out that we were being charged for the taxes on the tenants' homes as well as the land. We asked that the tenants pay for their own portion of the tax bill, which is about three quarters of the bill. Why should I as a landlord pay taxes on houses I don't own? They only pay \$100 per month per site to live there, taxes included — \$100 a month is the cost of parking alone in Ottawa.

Tenants assume they are paying for taxes, lighting, roads, septic systems and common areas, all for \$100 a month. These tenants all own their own mobile homes that I as a landowner pay the taxes for. They have cars and some have cottages. Many have full-time jobs and more than one income earner per home. One owns a new home in Smiths Falls and sublets his trailer home for \$500 per month. I only get \$100 per month. But they have received legal aid for the last four years to fight the battle over taxes. We have won 15 small claims court judgements against these tenants, but they are appealing these decisions with legal aid again.

These tenants have paid nothing and have delayed legal proceedings six times, which has cost me greatly in legal fees, time and emotion. Not only did they get legal aid but they have called every government agency to slap us with court orders and other orders. We have been able to

overturn all these orders successfully, but at great cost. A rent officer then decided that they, the tenants, had already paid taxes as part of their rent even though the act says that is impossible. So the rent is now supposed to be about \$75 a month.

We had our rents frozen until we got rid of stagnant water on vacant land next door. This park is in a swampy area in the country. I had to get other government agencies, municipalities etc to point out that getting rid of the swamp water was impossible. But this took me at least a year to overturn.

Then we had a tractor that broke one of the pipes in the septic system in 1994. Instead of asking us to repair, the health department condemned the bed, forcing us to pay \$1,000 a month in pumping charges. They also wanted an engineer's report and a new design. The design came in at a cost of \$100,000. This is impossible to pay for when the rents are \$100 per month.

We tried to shut down these sites, but got a letter from the RHPA telling us that we could not evict or if we did follow procedures then we would be fined \$50,000. Obviously we stopped the proceedings.

Then we asked the municipality for permission to shut down these concerned sites under the Rental Housing Protection Act. They refused to decide this issue because they do not want to lose the votes.

Landlords should have some say in what they can and cannot do with their own land. Meanwhile we're still paying pumping charges of \$1,000 a month. In spring 1995 the health department ordered us to put in a septic system or face criminal charges for failure to provide the necessities. This would result in a fine and/or jail term and definitely a criminal record. We are not criminals and this really scared us. So we were forced to privately borrow money, \$25,000. We were not eligible for a bank loan. There is no way to recapture this expense from the tenants.

Now the municipality is threatening a tax sale or attornment of rents. Our future and the park's future look very bleak. The bank is threatening to foreclose. We as landowners have for the last five years paid our portion of the land taxes but the tenants have not paid for their home portions. The municipality wants us to pay the house taxes and get reimbursed by the tenants. At \$100 a month, it's impossible to run this park.

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Everything is coming to a head financially and emotionally. If the municipality attorns the rents, we cannot afford to pay the mortgage. If the mortgage company forecloses, then we not only lose the park but also our credit rating and probably our home.

I know you cannot help me as an individual with my personal plight, but perhaps you could do something to help all mobile home parks stay afloat.

We have continued to fight this long because we have had hope for Ontario's small businesses and landlords with the commonsense approach. However, without

changes very soon it may be too late for us and many others. Thank you for your time.

Ms Joy Overtveld: My name is Joy Overtveld. Generally ORLA applauds the intent of the government to help the average landlord and we support the submissions of other organizations that we know you've been hearing from in the other cities throughout Ontario.

ORLA is not just for mobile home owners. As a matter of fact, most ORLA members are not mobile home owners, but we chose Bonnie because Bonnie typifies the profile of the average landlord. You're looking at someone who is an average landlord in Ontario. It's also because her situation happens to highlight an area in the legislation where intent has not translated into the draft. Mobile home parks really need your help and the provisions as now drafted will not save many parks in Ontario.

There are two key issues with parks across the province. One is the problem with taxes and rent, and the other is the sewage and infrastructure problem. Both, by the way, are dealt with under the Tenant Protection Act in some fashion. Bonnie happens to have both problems.

Mobile home parks and land-lease communities represent the only affordable form of home ownership for the working classes in Ontario. This is without a doubt affordable housing. The problem is that "affordable" has to mean affordable for both the landowners and the homeowners. When the homeowners are paying less than a third of what a welfare recipient gets for shelter, this is not affordable for the park owner.

The bottom line is that there's got to be a way for the park owner to recoup at least the costs of running the park, plus a bit for profit. Otherwise the parks will soon cease to exist. They'll be wiped off the map. Revenues must exceed costs. There cannot be parks operating at permanent losses. The current draft provisions do not help people like Bonnie, even if they are intended to do so.

First, the sewage and water infrastructure problem: There are many, many park owners across Ontario that over the past five years were hit very hard and were forced to do extremely expensive repairs, renovations and upgrades to sewage and water systems. There was no common sense in many of the orders that were issued, like Bonnie's requirement to remove swamp water from about 500 feet away from where the park was, but the money is already spent.

The numbers bandied about for capital expenditure windows — you're talking about 12-month retroactivity, maybe 18-month retroactivity — don't help these parks, and many are very desperate. We've got a sample provision in our submission here that will help. It's patterned on section 15 of the current RCA. There are several ways to fix this problem but the easiest way — and it doesn't need to be confined to parks; this provision could help other chronically depressed rent areas where huge expenditures were required — is to start with the date Ontario became open for business, which is the date of the election, and to create a very temporary transition phase where there's an opportunity to make an application

that allows for costs retroactive to June 1995 where there were huge expenditures that were totally unwarranted based on the amount of the rents.

This temporary transition phase would come to a close and then they'd go into the normal capital expenditure window, whatever you're planning to go for.

There are other problems with preventing cost recovery in mobile home parks. For example, percentage increases on rent when you've got superlow rents are virtually meaningless. When you're talking about a \$50,000 repair on a septic system with 3% or 4% annual increases on \$100 a month, it just doesn't add up. The math doesn't work.

Vacancy decontrol has been eliminated on parks. Why? This was the only possibility for some park owners to have some long-term possibility of getting out of this situation.

The second major issue is the conflict between the taxes and rent provisions. This is a lot more complicated because the problem is every park in Ontario has a different situation. They're all over the map. Here it would be great if you could work out some kind of comprehensive approach. I think all that's needed is a committee with people from all of the different ministries that are proposing amendments right now. You've got a huge number of pieces of legislation that are moving forward with changes under way. If they all come through the way they're planned now, it's going to put parks in a worse position rather than in a better one. The Tenant Protection Act, the Rental Housing Protection Act, the Condominium Act, the Municipal Sales Tax Act, environmental legislation, the Assessment Act, the Planning Act, the building code are all listed in our submission here in a summary of what's happening.

Finally, any landlord should have the opportunity in some kind of last-ditch effort — if you can't find a way to put yourself in a position where costs are lower than revenues, there should be some sort of legal euthanasia, mercy killing, for parks and for chronically depressed rental units that just can never make the grade. You should be allowed to either shut the units down or change the use.

The ministry officials seem to think the Condominium Act changes are going to provide this opportunity for parks. It's not true. You can't convert to condominium use and sell off lots in old parks because they're not big enough. They don't meet the current size requirements. The lots are too small. You'd need to allow severance for undersized lots if Condominium Act changes would be the thing you'd be going for.

Overall, parks need to be treated comprehensively, and as far as I can tell they never have been. There's no integration between the legislative reforms. They need reforms to work together on all aspects and to respect key principles: (1) keep the parks afloat; (2) maintain and increase affordable housing in Ontario; (3) revenues have to exceed costs; (4) a change of use must be allowed in situations where costs will never be less than revenues; (5) past money spent must be recovered fast, particularly

in the case of parks because they were forced into situations that other landlords were not forced into.

I'll just point out that the submission you've got in front of you has a couple of things. You've got our newsletter and you also have the submission for today. Bonnie's presentation is in it and the statistics that Valerie quoted are also in it, and pages 8 through 12 or 8 through 14 or something talk about the mobile home park revisions. Then we've got a whole other series of general revisions that we're advocating or supporting and we're giving you some documentation to support that later on in the submission that deals with all landlords in Ontario.

Mr Cleary: Bonnie, who forced you to move the swamp water 500 feet away, and why?

Mrs Hawkins: That was the Ministry of Housing, standards and maintenance. They put a work order on and said I had to remove the water from the ditches or from around the park because it was stagnant and could cause harm to the tenants. That's the land. If you go to the park, it's a swamp in the front, all around.

Ms Overtveld: It's been there 50 years.

Mrs Hawkins: It's been there 100 years.

Mr Cleary: If you had one change in legislation, what would that be?

Ms Overtveld: The suggestion that we made, to get the retroactive increases, would help her, and there are several others in here that would help her as well. But her situation is typical; that's the problem. It covers a lot of parks. The provision where we're talking about the section 15 thing, where you have a temporary window that goes retroactive to June 1995, would help Bonnie.

The Chair: Thank you, ladies, for coming this afternoon.

The next delegation is the Fringewood Corp, Philip Sweetnam. The delegation after that, which is the Psychiatric Survivors of Ottawa, Mark Parsons, has indicated that they're unable to attend this afternoon. Would Housing Help be here?

1350

FRANK HABOLY

The Chair: Mr Haboly, you're prepared to proceed now and perhaps you could. Thank you, sir, for saving me. You may proceed when you're ready.

Mr Frank Haboly: My name is Frank Haboly. I am just a small landlord. I got some paper that the Mike Harris government will bring in a new form of tenant protection. I ask the Premier, how about landlord protection? I gave you some kind of paper.

A friend of mine with four bounced cheques went to court. She hired a legal aid lawyer — was supposed to go. No, she doesn't go, is still there. Three days ago he went again and wanted to collect the first month's rent. No rent again. It was very nice of her: She had all the cigarette butts, dumped them in his car and over the coffee, and no rent again. Again, go back to square one: Go to the court,

she might pay. It's going on. It costs the landlord lots of money.

There is another one over here from another rooming-house. He paid for three months, and for two months nothing. When he was forced to move, he did all the damage. I ask you again, where is the landlord protection?

Also, I wrote a letter to the minister before, what to do with a so-called welfare crisis. If you go through a Stop sign or a red light you will get some points. If the welfare people do some damage, should they too not get points? Should they get any money before all the damage is paid? They do damage of hundreds of thousands, tens of thousands, thousands of dollars for a landlord and they get away with it because nobody does anything about that.

I ask you, ladies and gentlemen, do you believe you have a right in your own house to let anybody you want to live in it or not? That's what I want in my own apartment too.

I have tenants for 12 years, 11 years, 10 years. Do you think any landlord wants to get rid of any tenants now when there are too many empty apartments? I don't believe so. Do you think any landlord brings in a cockroach to the apartment? I don't think so. Do you think any landlord is going to break a window in the house and then call up the health department to fix up a window? I don't think so. It is all done by the so-called bad tenant. Sure, there are bad landlords too, but I'm talking about the bad tenant.

I wrote a letter, on this paper. You have it in your hand. All those people on social assistance or welfare who damage any apartment should have deducted 20% each month from their allowance or what they get from city hall until the damage is paid. That's the only way to hold them back. It is like the Young Offenders Act: They get away with it because nobody does anything. Yes, gentlemen, we want protection; me, a landlord, yes, I want it, I want it very bad.

The Chair: Thank you very much. Members of the committee, sir, may have some questions if you're prepared to entertain those questions.

Mr Haboly: Go ahead.

Mr Cleary: I just wondered, do you belong to a landlords' association?

Mr Haboly: Yes, sir.

Mr Cleary: Have things improved since you joined?

Mr Haboly: As I look at the new tenant protection from the so-called — the socialists and pinkos call them a right-wing government — sir, nothing, nothing. Harassment, \$50,000. If I go collect the rent they could say I harass them or want to rape them or anything like that and I am liable for \$50,000. What kind of policy is coming from the so-called right-wing Harris government? I ask you again, where is my protection? Me, as a landlord, or all of the landlords?

Mr Cleary: So you don't think there's anything in Bill 96 that will improve it?

Mr Haboly: Zilch, nothing for me. You are able to raise the rent if the tenants move out. I ask anybody over

here with a sober mind, if they pay \$400 now, do you think they are going to move out in the next 10 years? No way. I have some apartments that I registered rent for from \$730 to \$650, because everybody did that. That's about \$3,000 a month for me — not me, everybody was forced to because that's the way it is. Too many empty apartments; 25,000 people got laid off from the government in Ottawa. That's what it is.

I see nothing on that one. It is similar to the pink Davis government that brought in rent control and that other guy who is talking about pink in Toronto. I believe in capitalistic enterprise. I come from a country, Hungary, where I know what the socialists did for 40 years to those countries. I do know. A socialist idea never works. It's Utopia, it's a dream world. Even good old Sweden is finished, threw them out. It doesn't work. Gentlemen, you have to change if you want to keep our country going.

The Chair: We still have a couple of more questions, sir, if you're prepared. You've stirred them all up here. They all want to talk to you.

Mr Marchese: I think Mr Haboly has raised some concerns about the socialist government in power. They've written this act that discriminates against landlords, because it's called the Tenant Protection Act. I think they should be held to account. I think they should answer the questions. I want to hear from Mr Gilchrist.

The Chair: Do you have a comment, sir? Did you have a response to what he said?

Mr Marchese: No, I want to hear from them.

The Chair: Oh, you'd like to pass. Mrs Munro.

Mr Haboly: You want to hear it from the right wing.

Mrs Munro: Thank you very much. I think one of the efforts that has really been uppermost in the creation of this legislation is to look at how we can create a balance between the issues that arise between landlords and tenants. I guess one of the marks of achieving that balance is to come to hearings such as this and have criticism presented from both sides.

I want to ask you a question on your experience. One of the issues tenants have raised here in the hearings over and over again is the question in section 200 which deals with the kind of information a landlord may or should or possibly can use in making a determination as to the suitability of a prospective tenant. Currently, obviously landlords do ask questions. They tend to centre around the issue of tenant history, credit rating and income, not source of income but income. We've heard many people who have expressed concerns about this. I wonder whether or not you could give us a comment, based on your personal experience, in the area of asking prospective tenants questions.

Mr Haboly: Gladly, lady. When people fill out an application form I ask them — they have two children — what the income is. If they say \$25,000, I am not able to rent to them because they are not able to pay rent and have two children. In my book, if a tenant, one man working is making \$30,000, then I rent for them with two children. If it's less than \$30,000, for two children, for a \$730

apartment, I am not able to rent to them because I know he is not able to pay. He's just not making enough money; it's as simple as that. Why should I go through all the hassle, go to court. As I told to you before, I have tenants for 12 years. I don't want to do that.

My dear lady, last year I paid \$3,000 to the Ottawa Citizen for advertising. That's \$300 a month to rent an apartment. Do you think any landlord with a sober mind wants to kick tenants out and pay \$300 to the Citizen for a month? No, we don't want that, but we are forced to do that.

Also, we had a meeting. There was a lady from the social assistance service. They called me up to ask if I'm willing to rent to people on social assistance or welfare. I told them yes. Guarantee the first and the last month's rent, number one. Number two, guarantee all the damage which is done by them; if the welfare office is going to pay for it, then I am willing. Instead of having 10 or 13 apartments empty last year, yes, I would really like to have them. But not in that way, when they do damage and they don't do anything; they steal a fridge, they steal a stove, and even a garbage box. No. I would rather have it empty and avoid a problem later on, because that's what you are going to have. They go with legal aid, which should be put into the garbage, number one, garbage for the legal aid. Then I have to pay a lawyer. No, my dear lady, no. That's the reason I don't rent them out for them.

1400

Mr Marchese: Any other questions, Julia?

Mrs Munro: No, that's fine. Thank you.

Mr Wettlaufer: Mr Haboly, I'd like to thank you for coming here today. I think what you have done is point out some of the problems facing many of the landlords in Ontario. Many of the landlords, 80% of the landlords in Ontario, own buildings of 10 units or less. Many of these landlords are immigrants like yourself who came over here after the Second World War. They built up their life's savings, they tied it up in an apartment building like yours. I know many of you rely on that income for your pension.

What we have heard a lot of from some landlords is that this legislation does not go far enough. We've heard from tenants' groups that the legislation goes much too far, that it favours the landlords entirely. What we tried to do with this legislation was steer a middle ground, to provide some protections for the landlords and some protections for the tenants.

What in particular do you find offensive about the legislation?

Mr Haboly: Let's put it this way. They raised it 2% or 3%. That was never the landlord's big idea. We are afraid to get involved with the tenant. They have all the rights and they could go to the legal aid and to the court. As I told you before, the eviction notice comes back. That's the biggest problem. As I said before, all the tenants who don't pay their share, evict them on their own expense, not on mine. I don't have to hire a sheriff, I don't have to go into court. That gentleman, he went into the court, paid \$250 and the tenants are still in it, and they spit at him and

they poured coffee and dirty cigarette butts on his own car on the 5th of this month. That's what we want, sir: We want to avoid all the nonsense.

If you have some kind of meeting — never mind the court now, I'm not talking of court — if she doesn't pay her rent for seven months, goodbye, arrivederci, auf wiedersehen, out at their own expense, not on mine; no legal aid for that one. As I told you before, nobody wants to get rid of the tenants now. There are so many empty apartments. Who wants to get rid of them?

Big men in Ottawa, working for the CBC and working for city hall, are losing apartments because they're not able to rent them. On Merivale Road a \$500,000 apartment is on power of sale for \$360,000. Do you think any landlord wants to get rid of the tenants? No way, José.

Mr Wettlaufer: Mr Haboly, one more short question: Mr Marchese of the NDP would let everyone think that landlords are getting rich, that landlords are making lots of money. Would you like to tell us about that, about your experience?

Mr Haboly: Oh, yes. Why, I'm very rich. I go everywhere, to California. I drive a new car, everything. He's NDP. That's a socialist. Go to hell with them. I know what they are. Everybody knows what they are. We don't need any more pinkos. It's enough. You know what they want? They want to bring in estate tax. If you make over \$1 million, you pay a so-called estate tax. Why the hell would anybody want to save? Let the government pay for everybody. Why would anybody want to save, if you make over \$1 million and you have to pay estate tax on it? Why would anybody want to save? We came away with it saved, we worked very hard, and as far as I know — it's my house; I worked for it — It was never nationalized. If they want to dictate a tenant, nationalize and pay us and take it over. I am not against it. Take it over. Lots of landlords are to you, "Take it away, nationalize it." But don't tell me what I am doing in my own house, because I worked for it. I am doing the cleaning.

The pet law: Peterson brought that one in. They sign a paper, "no pets." After three months they bring in a pet and they are able to keep it because the stupid Peterson government did that one. If they sign a paper, "no pets," that should be no pets. We are fed up with it. All of the landlords are fed up with these pinkos.

The Chair: Mr Haboly, thank you for coming. We appreciate your comments.

FRINGEWOOD CORP

The Chair: Fringewood Corp, Mr Sweetnam: Is he here yet? Good afternoon.

Mr Philip Sweetnam: Good afternoon, Mr Chairman. Sorry. I started to make this presentation to Hitachi down the hall and they didn't appreciate it.

The Chair: They didn't? Oh, we're more receptive than that. Thank you very much for coming.

Mr Sweetnam: While I waited here I had the opportunity to scan through the Ottawa Region Landlords

Association brief. I was reading Bonnie Hawkins's presentation. I would just say to you, in my experience that's not a unique situation in terms of the mobile home situation. Generally speaking, the rents are really undervalued in the area.

We've been landlords here in the Ottawa-Carleton area. My family operates a couple of mobile home developments in the Ottawa area called Fringewood. There's an older development that was done in the mid-1950s and a newer development in the mid-1970s. Of course the one in the mid-1970s has municipal water, sewer, street lighting, wide streets and all those sorts of things, while Fringewood North has only the municipal water.

Fringewood North is in desperate need of modern sewer and hydro services. In the case of each service, the relevant authorities have tolerated the delays in installation in anticipation of the legislative changes that would allow a fair capital cost pass-through. Without that pass-through, I can't justify it before our banks. Really it's more cost-effective to shut down the Fringewood North development, the older community, and we could then develop higher-cost, traditional type of housing which would be more acceptable to the local municipality. In this way we could derive the revenue to cover new services rather than upgrading the present mobile home services. However, as you would understand, that would be terribly disruptive to my tenants and something I wouldn't want to undertake.

Therefore, I want to say it's important that the new legislation allow a large enough cost pass-through that it will make it financially viable for landlords to make the required upgrades to services which will maintain the stock of affordable housing.

To summarize my point, Bill 96 should allow adequate rent increases so that landlords can pay for the service upgrades ordered by government departments. I'm sure some people would say, "That's great for you as a landlord, but what about your tenants?" I've discussed with my tenants in the Fringewood North community about the possibility of a \$40 or \$60 rent increase to pay for modern sewer systems and road and hydro. If that increase meant an increased security of tenure that would last 15 or 20 years, the association feels it would be a good way to ensure their investment in their homes. This feeling is shared by tenants of other mobile home communities such as the Cobden mobile home park. It's called Lakewood. I've enclosed in my brief something from the owner of that development. There's a compendium there.

I think tenants realize that landlords can't pour money they don't have into mobile home developments. I noticed in the Hansard record that opposition members at Queen's Park are concerned that the new legislation just benefits the rich rental corporations. In my experience here in Ottawa-Carleton and in other areas in the Ottawa Valley, most of the apartment, and especially the mobile home, landlords are struggling business owners. If they're denied

the resources to run an adequate operation, they'll be forced to provide an inferior product.

1410

I'd like to provide a personal example. If you'd look at the photographs that I've provided for you, one is the older development. It's called Fringewood North. In spite of the decaying infrastructure, the people certainly take great pride in their homes and they look after them well. If you look on the back side of that framework, it's pretty difficult to explain to you that the sewer services are in a situation where I'm using sump pumps or effluent pumps to pump up into a township sewer, or you can get a little bit of the road cracking that's there. Certainly this is in contrast to the next page, if you look at the wide streets that are in the Fringewood South development where you put the money in and you get a product that's really quite pleasant to live in and one I'm proud to put my name on.

If you look on the back page, the one about Fringewood South community, you'll see there's a 1,200-square-foot community centre. You can see some of the playground equipment. The lower photograph here has a picture of the ball diamond backstop and the community centre. Between the two developments, the best I can do for you here, this is sort of the road pattern of Fringewood. There's one street called Lazy Nol, another called Clover-loft. There's an open space of about 100 feet between the two areas, and that's the photograph that's in here sideways. It sort of illustrates that between the rear lots there's ample open space, the kind of thing that I'm certainly proud to have said my family has been associated with. The one that we bought in the 1950s, as I said, is in desperate need of infrastructure upgrade. The thing is that we started later, had the higher rents to start with, and rents go \$250 to \$300, whereas in Fringewood South you're looking at rents of around \$210.

I think I've demonstrated, or I hope I can in a small way demonstrate to you, that in this case the less than satisfactory result isn't the result of a schlocky landlord. It's a result that you don't have the income and banks are really pretty tough people to deal with today. They don't say: "Gee, I know you'd like to put sewers in there, Phil. Just go ahead and do that because it makes good social sense." You have to be able to show them there's a plan and a cost pass-through basis.

I've written down most of the stuff here, but I want to just give another example. That's at the bottom of page 3. There's a chap who owns a park in Elgin. His name is Bill Beaton. He also owns parks in New York state. When I say parks, it's 65 units. This is a retired serviceman. During his eight years of ownership where the rents are \$200 a month, he has managed to put pavement in, put municipal water service in, upgrade the street lighting and that sort of thing, really a place that he's proud to put his name on, as he has said to me.

On the other hand, in Elgin he gets \$80 a month: \$110 total, and \$80 is the net result after he pays the taxes. You have gravel roads, no street lighting, and he says: "I don't even want my name on it. I'm really ashamed." But he's

forced to spend \$39,000 because the health department has a gun to your head saying, "Look, if you don't, you'll be fined."

I know there's a social responsibility to do those things, but there's also a responsibility on the part of you as legislators, I believe, to try and make it so that there is a fair cost pass-through situation. As I say, in the end what you have in Elgin is gravel roads, no street lights and really a disillusioned land owner who puts his efforts where it rewards him, in New York state.

Those are the track records of those two communities.

Capital expenditures: I've enclosed an appendix that has a list of some of the other mobile home parks in our area that are having these same kinds of problems. The time constraint doesn't permit me to go into all of those, but basically we're looking at cases where people have been made to put municipal water into their developments because it was their time. Mobile home parks which are on the fringe come to the point where water service is available and the municipality says you must put it in or they have to upgrade decrepit septic tank systems.

The proposed legislation should allow a pass-through of costs dating from the date of the last election. I notice the proposal was just to go back 18 months. I know of a development in Trenton where, as I say, the water was there in September 1995 — there was an expectation that this government had suggested that there would be a fair treatment of landlords — a \$35,000 capital cost which really can't be recovered if you cut the window to 18 months. I would propose to you that what you ought to consider doing is saying, "Look, if a government organization has ordered you to do this, then it wouldn't hurt you to go back to the start of this government."

I've provided for you an example. When the Liberals were the government and introduced the RRRRA, the time of registration went back two years to 1985 even though the legislation didn't come in until 1987. They even allowed you to go back a couple of years if you had some capital costs. So I would think it's not something that you would have to say is way off the wall or has never been done before.

Vacancy decontrol is the other one that's unique for the mobile home community. Your legislation doesn't propose to extend that to mobile home parks. I think it's a fair way of trying to progress towards the market value for rents. However, I would say that since the rate of turnover in mobile home parks is rather low, it probably isn't going to do very much for somebody who has an \$80-a-month rent. Let us say that he can move it from \$80 to \$150. It probably doesn't have the infrastructure to even justify that. I think it would be far better if you were to consider a one-time capital increase for those who are chronically depressed in rent. You ought to say, "Look, 50 bucks is an appropriate pass-through."

I say that for what I hope is the betterment of the industry that I've served my life in, not because I would classify my rents at \$200 and \$300 as chronically depressed. I say that on behalf of Bill Beaton, Bonnie Hawkins

and all the people down the valley, Sue Stackhouse, those people who have really put their life into trying to do something in the community. That's the main point I would like to get at.

In every situation you like to say something good. I think there tends to be more of a direction towards mediation, which I applaud. With the help of my legal team we've managed to win about 85% of the battles before the rent review tribunals, but I've got a \$50,000 legal bill for my efforts. Mediation has got to be the way to go.

I don't find tenants to be really, on the whole, obstreperous. You get one or two ding-dongs in every group, but on the whole, people tend to understand the problem. I think mediation is far more cost-effective for both sides, because it's not only my \$50,000 you're spending. You as a community spend \$40 million to run this housing bureaucracy. I serve as a past chair of a conservation authority; 15 years I'm a member. The whole commitment through this province is \$10 million to conservation authorities. It's four times as much to run the housing bureaucracy. Mediation is really, gentlemen, the way to go.

In conclusion, I want to congratulate the government for taking a complex issue and trying to steer that fine course. Not everything in this bill is the way I'd like it to be, but a reasonably fine course that would allow the level of this type of housing stock to remain in Ontario. I think Bill 96 can do this if the legislation and the regulations are carefully drafted.

The Chair: Mr Sweetnam, thank you very much. I know there are some questions.

Mr Marchese: Mr Sweetnam, I just notice you live at 8 Sweetnam Drive. How did you manage that?

Mr Sweetnam: Here in Ottawa-Carleton, as I'm sure in every other way, we've done a plan of subdivision. That's where my office is, not where my residence is. But when you do a plan of subdivision, you have to have a unique street name, like you couldn't do another Cedar Street. At the time we were trying to think of something, my dad had just died. I thought it was an appropriate memorial to him to name the street after my dad. He had more foresight than I did and bought property in the right location at the right time.

1420

Mr Marchese: There was a lawyer who came in front of our committee yesterday from the Muskoka area, and I'd like your response to this. She said:

"In rural Ontario there are a number of mobile home parks where the landlord has ignored public health and environmental regulations for years. They have refused to abide by section 128 of the Landlord and Tenant Act on the specious excuse that repairing a sewage system to code would simply cut into their profit margins too much. No landlord who has abused his or her tenants by allowing disrepair to occur over years of neglect should now be rewarded by being able to obtain even higher rent

increases than other landlords. That would be completely unacceptable acquiescence to rural landlords' greed.

"Infrastructure upgrades have not been done in a number of these communities for decades. For those decades, the landlord profited enormously. The Legislature should find a way to force these landlords to pour some of their profits into the upgrades on a systemic and timely basis and not wait for crises to happen like burst sewage pipes and polluted water systems."

Mr Sweetnam: Certainly I would concur that there's no reason for a landlord, outside of the fact, as I say, that banks are extremely tough — if you're talking about normal infrastructure upgrades, in other words, where a landlord has to go and repair a simple septic tank system, you've got a 2% capital cost and it should be done as part of that.

During my ownership, I didn't come back and say to the rent review bureaucracy of the day, "I want some more money to put municipal water in." The time had come when encroaching development and the septic tank effluent in the wells were such that municipal water had to be there, and I put it in. In my case, I'm talking about three years' total commitment of all the money I put in to sewers.

I think it's important to understand that all the rest of my community in Stittsville got 75% provincial dollars. They left one community out, and that was the Fringewood community which I represent. I went and did the battle of the day and said, "Look, it would be appropriate for the tenants," because the day is going to come, if the province doesn't subsidize it, that the tenants are going to have to pay for it.

I'm simply saying, yes, you're right; you can't let your infrastructure go way down. Even doing something as simple as pumping out a septic tank with an effluent pump, a sump pump, gets it up to the township sewer, but as the Ministry of Environment says, "Phil, this is not an approved system." I want to put in a \$250,000 approved system, and that's not what 2% can do, or 2% plus add your 3% that they used to allow us. It won't do it. The banks laugh at you, and they're powerful people today. You're at their mercy to say, "I need to be able to pay for this." They don't say, "Well, this is the right social thing to do."

I'm somewhat sympathetic with what your person has said, but I think she has a somewhat rosy view of the world and the reality of trying to operate in it, Mr Marchese.

Mr Gilchrist: Thank you very much, Mr Sweetnam. While Mr Marchese would like to deal with unsubstantiated generalizations that paint a pretty bleak picture, you've shown something very different. I must say you've got the most colourful presentation we've received so far. I appreciate your sharing that visual evidence of exactly what's taking place in your community.

You mentioned the 18 months. Perhaps word has reached down here. I announced at the annual meeting of

the Multiple Dwelling Standards Association that the minister was amenable to an 18-month retroactivity.

Mr Sweetnam: Yes, I saw that in the purple memo.

Mr Gilchrist: Excellent. I appreciate there are those who would like us to go back even further, but that would take us back, assuming the bill is passed late this fall, to the middle of last year. Coincidentally, June 1996 was when the first discussion paper was introduced.

Let me ask you if it would be safe to say that at that point people had a pretty clear idea of the direction the government was inclined to go in and may at that point have started to make decisions about adding services. Would June 1996 be a date that you think is defensible?

Mr Sweetnam: If I were in your position, trying to steer the tight course, I might compromise at that. I simply put to you that I think there was an expectation as early as — my recollection is even in 1995 going to some conferences which Mr Leach addressed and I think there was the expectation that there was going to be fairer treatment of cost pass-throughs. I think there was a recognition that the old system of trying to do it with all co-op houses and stuff wasn't appropriate and we were going to try to do something a little different than that.

As I say, in the cases I know, Trenton and I think the one at Cobden might just squeak under your 18 months back, depending on when the thing is implemented. I don't think there's a lot of political cost to going back to the start of the government. My suggestion is that it's been done before. Those capital costs were legitimately incurred. If the landlord went ahead and did something because he wanted to beautify his entrance and put a nice sign up and so on, I wouldn't think that would apply, but it certainly seems to me it would be appropriate to treat people fairly if they were required to do that.

I know in the park in Trenton, the chap had spent his 3% putting sewer upgrades in and then he was forced to put in water. Under the old system, that's all you get for 10 years. With a very low capital upgrade, you blow that whole cost pass-through thing that was permitted. When you're talking rents of \$120, as they are there, 3% isn't much of a cost pass-through. So I would encourage you to look at going back to the inception of this government. I think it would be fair.

It doesn't affect me personally. I can live with either situation. I just know people like Bonnie Hawkins have had — I don't know whether she complies with that 18 months or is outside the 18-month window.

The Chair: Thank you. Mr Cleary?

Mr Cleary: No, I'm fine.

The Chair: Thank you for coming, Mr Sweetnam.

HOUSING HELP

The Chair: The next presenter is Housing Help, Bob MacDonald and Craig De Fries. Good afternoon, gentlemen. You'll have to tell us who's who, and then you can proceed when ready.

Mr Bob MacDonald: My name is Bob MacDonald. I'm the acting director at Housing Help. This is Craig De Fries. He's a board member.

I've been with Housing Help since around 1988. I've had a lot of grass-roots experience working with clients with low incomes, so we want to discuss the issue of income criteria. I'd like to be looking at how it's affected clients in our office throughout the years, and Craig will be looking more at how we can see that trend, how that would apply in broader terms across the province.

Since we opened our doors in 1986, the issue of income criteria has been of great concern to us. It's safe to say that 100% of our client contacts have been affected by this legalized form of what we see as discrimination. In the Ottawa-Carleton region, landlords regularly ask for co-signers and do not accept the letter of guarantee which is provided by social services for the last month's rent.

The most common method of determining eligibility for a unit is the 30% rent-to-income ratio. Income criteria has been one of the hardest obstacles for our clients who need immediate or long-term housing.

We received 35,000 contacts in 1996 from people who were having difficulty finding adequate and affordable housing. Of those, 73% of the households identified social assistance as their primary income. Other sources included workers' compensation, disability, student loans, alimony and child support. The application of income criteria automatically discriminates and rules out those people and eliminates any protection they have under the Human Rights Code. Therefore, single parents, seniors and the disabled will lose their protection under the code, which will leave them more vulnerable to becoming homeless. It will also be a deterrent for women leaving abusive relationships to return to their partner. In addition, a person who does meet the 30% income criterion at the time of renting a unit likely will not meet it in the following years as rents continue to rise above the rate of inflation while the wages of most working people remain frozen.

1430

Ottawa currently has one of the highest vacancy rates in the country. A quick glance at the classified ads in today's newspapers will reflect this. Landlords are offering up to three months of free rent, free microwaves, free refrigerators and discount rents for signing long-term leases. Prospective tenants have more to choose from now than ever before. Unfortunately, our clients are still not considered for those units because they are told they don't make enough money. As a result, they are forced to stay in rental units paying an even higher percentage of their income on rent.

As a case example, last week I had a woman in my office with two children. She'd given notice to her landlord because she couldn't afford the rent there any longer. She was paying \$750 for rent, plus hydro. The rent was always paid on time. She was able to provide good landlord references. She found an apartment renting for \$550 with all utilities included, but she was told by the

landlord that this unit would be too expensive for her. Those are the problems that occur when decisions are being made for prospective tenants.

Landlords have other means to ensure that tenants are able to pay the rent, the best one being a landlord reference which verifies that a prospective tenant has a good rental history and credit checks. Such policies are practised regularly to ensure that landlords will receive their rent money on time. In a time of such high vacancy rates in this region, we believe it will be of no benefit to either landlord or tenant to continue imposing income criteria on a group of people whose options are already severely limited.

Mr Craig De Fries: If the income information criterion is allowed to remain in section 200 of the proposed bill, we fear low-income tenants will have more difficulty accessing housing. Out of an approximate total population of 750,000 in Ottawa-Carleton, approximately 16,000 people are on waiting lists for social housing. Therefore, the majority of low-income tenants are forced to rent on the private market, and as we have heard today, many are increasingly being, and we suggest increasingly will be, forced to live in inadequate housing while waiting for social housing because they will be deemed not able to afford a more adequate apartment on the private market. Therefore, we also fear an increase in homelessness or the extent of homelessness occurring in Ottawa-Carleton. In Ottawa, we see the numbers climbing despite the high vacancy rate.

We know we are not alone in our concerns. In July, the regional municipality of Ottawa-Carleton council sent a letter to Premier Harris expressing its concerns about section 200. One of those concerns was the potential increase in shelter allowances and emergency shelter provisions. We understand that Metro Toronto council also passed a similar motion and that the Metro Toronto children's aid society has expressed concern in terms of the potential of an increase in children being taken into care because of their family's inability to access housing or to maintain adequate housing.

Also, you are aware of Mr Keith Norton's concerns in terms of how section 200 affects the Human Rights Code. In response to Mr Norton, we understand Mr Leach indicated a willingness to amend this criterion of section 200, seeing that the main purpose of this clause is to ensure that landlords can check a tenant's credit-worthiness, which they can already do through credit checks and landlord references.

Therefore, we thank you for the time to present and we would urge that this section on income information be removed.

The Vice-Chair (Mrs Julia Munro): Thank you very much. I believe, Mr Marchese, we're starting with you.

Mr Marchese: I think it's their turn. I started last time.

The Vice-Chair: My apologies. Mr Wettlaufer.

Mr Wettlaufer: Gentlemen, I want to thank you both for coming. I know it's inconvenient for everybody to

appear before a committee, but it's nice to have your input.

I wonder if you could comment on whether you feel that unemployment and the recession we had over the last six years are the root cause of the poverty we have in our province today.

Mr MacDonald: I don't know that you can bring it down to a single cause. I think unemployment's very serious. The way it's happening right now, I think we're always going to have people who are unemployed for one reason or another. There are people on disability. There are single parents who are raising their children. There are always going to be people who will need help for a period of time.

Mr Wettlaufer: Many of these single people raising children, however, would love to have jobs. Agreed?

Mr MacDonald: Yes.

Mr Wettlaufer: They haven't had them up to this point in time. I don't know if you know, but the province of Ontario is undergoing the second-greatest economic boom in the last 50 years right now. A thousand new jobs have been created daily for the last five months. We see numbers indicative of a tremendous amount of confidence in the economy of this province.

The amount of investment that auto makers are putting into the province — for instance, auto makers announced \$1.8 billion of investment in Canada for the next six months. General Motors, Honda, Toyota and I believe Chrysler have announced record sales for the first half of this year. Home sales are up 13.4% for the first six months of this year, and it has been predicted that they'll be increased 13.7% for the full year. Non-residential construction is up another 13% over the same period last year and, even more important, it went up 25% from May to June. This indicates a great deal of expansion going on within the province. It indicates that there is going to be a tremendous number of jobs.

We have an increased amount of immigration coming into the province. I recently presented awards to some immigrants, during the last couple of weeks. One lady in her late twenties, from Yugoslavia, from Croatia, her husband was killed in the war over there. She brought her four children here with her. She has upgraded her talents such that she was offered a job. Only four months after getting here she's been offered a job making nearly \$40,000 a year.

I would like to ask, if this is happening, do you not feel this will result in a tremendous decrease in poverty in Ontario?

Mr MacDonald: I don't think we're seeing that in our office at this point. We're seeing more people coming in on a regular basis. Our region has been hit so hard by the federal government in terms of layoffs, unemployment. We're not seeing that in our office. We're seeing people who have been on the street. We're daily seeing people who have made those incomes of \$40,000 losing their jobs. Home sales are up? That doesn't mean anything to

our clients. They can't afford a room these days. We're not seeing it in our office.

Mr Wettlaufer: It means an increase in employment, though.

Mr MacDonald: Not in this region.

Mr Cleary: I'd like to thank you for your presentation. Is your association all across the province or just in the Ottawa area?

Mr MacDonald: We're an association; we work for the region. There's another one in the area too, called Action-logement. There are agencies that are quite similar across the province, but it's not a chain of McDonald's or anything like that.

Mr Cleary: Where does your funding come from to operate?

Mr MacDonald: It comes from the province, the city and the region.

Mr Cleary: You mentioned some of the things you didn't like in the bill. If you were to get your way on one change, what would that be?

Mr De Fries: I think this afternoon the change we were focusing on is in terms of removing the income information criterion from section 200 of the proposed bill, seeing that many landlords now rely on credit checks and landlord references to assess potential tenancy as opposed to income information.

1440

Mr Marchese: For at least 90% of the population, it's good to know that 10% are doing really well. That's important for us to listen to. Unemployment is at its highest in our history, yet they're producing jobs. Did you hear the rates? It's just amazing. Part-time jobs are increasing; wages, as I see them, are going down; entry-level jobs are very difficult for young people; and the salaries of most humans I know, particularly those starting out, are getting smaller and smaller.

Mr MacDonald: I just wanted to point out as well that in this booming economy the increase in people applying for social housing is greater than ever. As Craig indicated, it's up to 16,000 now, and that's definitely on the rise. There are more people in need.

Mr Marchese: Section 200 is really something I've been focusing on, and the government members too, by and large. We have heard today two people — were you here for Mr Haboly's presentation?

Mr MacDonald: No. I just got here.

Mr Marchese: You missed it. Okay. I asked Mr Greenberg from Minto Developments about his usage of income information, because the government argues that they use income information now and it's not illegal. What is illegal is whether they use it to discriminate. For me, it's hard to figure out how you use income information and not discriminate. How do you do that?

So when I asked Mr Greenberg whether he uses it in ways that could be discriminatory or are, he says, "We just use it as one tool." He never answered my question. But Mr Haboly was rather different. He clearly declared that he's a landlord and he can do what he wants. He says

that if somebody comes in who only makes a certain amount of money, he's not going to let them in.

Julia asked that question before; the parliamentary assistants are not here to defend this. Section 200 is supposed to protect tenants, the people you represent, from that kind of thing. Mr Haboly came here declaring quite clearly that he does it now and he intends to do it in the future. With this section now, they argue, you could take them to the Human Rights Commission or to court. Do you feel any better protected now with this section than before?

Mr MacDonald: No.

Mr Marchese: That's really the point I wanted to make. If they didn't have protection then, they don't have any now. The fact that this section says they can't discriminate doesn't mean a landlord doesn't use that information to do so. How are you ever going to prove that? That's my difficulty.

Mr De Fries: That's certainly what our concern is.

Mr Marchese: My sense is that if they're going to do anything, they should say outright to people that they can't use income information so as to clearly indicate to landlords that they cannot do it. Not that they can but that they can't do it, because if you allow them to do it, they use that information to discriminate. Thanks for coming.

The Chair: Thank you, gentlemen, for coming this afternoon and making your presentation to the committee.

As I indicated earlier, Mark Parsons of the Psychiatric Survivors of Ottawa, as shown on the agenda, telephoned and indicated they weren't able to attend this afternoon. As you know, the action centre for suicidal justice — good heavens. They'll shoot me if they heard me say that. I apologize.

Interjection.

The Chair: That will probably make a headline, won't it, Mr Marchese? While we all compose ourselves, I'll try again. The Action Centre for Social Justice spoke this morning, so we now have two presenters left.

EASTERN ONTARIO LANDLORDS ORGANIZATION

The Chair: The Eastern Ontario Landlords Organization, Luigi Caparelli, president.

Mr Luigi Caparelli: My name's Luigi Caparelli. I am a small landlord here in the Ottawa area, and I'm here today on behalf of the Eastern Ontario Landlords Organization. We have been in existence since the fall of 1990. We currently have over 200 members who own or manage over 40,000 rental units in eastern Ontario. Our membership includes many landlords with one, two or three rental units, as well as several landlords with several thousand rental units.

We have appeared before this committee before and have presented the committee with detailed presentations. The main amendments we would like to see in the proposed Tenant Protection Act are set out below in three

groups: changes to the landlord and tenant rules, changes to the rent control rules, and changes to the procedural rules. Together with each requested amendment, we have set out the reasons we believe the amendment is appropriate. I'll begin with the landlord and tenant rules.

The proposed Tenant Protection Act does not shorten the existing notice periods, so for non-payment of rent an eviction application cannot be started until 15 days after the notice of termination has been given. There will be five days for the dispute, and the government is saying that a hearing should take place two to three weeks after that. That means that an eviction hearing will not be held for at least five or six weeks after the tenant's breach of obligation. We request that the notice time periods with the time delay to obtain a hearing be shorter. We also request that the shorter time lines be mandated in the Tenant Protection Act.

Eviction time lines need to be faster to allow landlords to protect other tenants and to allow landlords to be spared the loss of more rent upon default. We thought that the government appreciated these concerns because of its various policy announcements indicating that the process would be speeded up. However, as the proposal stands, the time lines have not been speeded up and there is no legal requirement for speedier hearings.

The proposed section 172 allows the tribunal to require a respondent to pay a sum to the tribunal. We request that the Tenant Protection Act be amended to require that rent be paid to the tribunal whenever the tenant has not paid it to the landlord. We also request that this be made a condition of setting aside the part of any default order that relates to eviction.

The proposal is weaker than the current law. Public housing authorities and private landlords are in agreement that the requirement to pay rent into court should be strengthened, not weakened. Unless that is done, landlords will be providing services, namely, the rental unit and often the utilities, while the tenant does not pay for those services. The proposed subsection 79(1) applies once proper grounds for termination have been proved. The subsection gives the tribunal broad power to refuse to grant an application for termination unless it is satisfied "that it would be unfair to refuse" to grant the application. We request that this be changed so that the tribunal may only refuse to grant a properly proven application for termination if it would be unconscionable for the tribunal to grant the application.

The legislation requires the landlord to have a reason to terminate approved within the Tenant Protection Act. Once the landlord has established a valid reason to terminate, the tribunal should not have a general discretion to refuse the termination. Reducing the general discretion will allow landlords to better protect other tenants from bad tenants, and to exercise their rights.

Landlords' rights are already heavily constrained within the act, especially by the requirement of having a reason for termination specifically listed in the act.

The next few points I'll be making deal specifically with rent control.

Sections 116 and 196 provide for vacancy decontrol "unless otherwise prescribed." The ability to eliminate vacancy decontrol by regulation must be removed from the act. We believe that you intend vacancy decontrol to work and that the legislative draftsman erred in presenting such a broad power to prescribe vacancy decontrol out of existence.

The proposed Tenant Protection Act eliminates the concept of maximum rent, while providing landlords a new right to set a market rent on turnover. This will create difficulties for landlords who rent units in the down cycle of the rental market. We understand that the government intends to allow a rental discount of one month on new tenancies to alleviate the problem landlords face in the down cycle.

Our first preference would be that maximum rent be retained, which we believe can be done without maintaining the rent registry. Failing that, we request that a discount of one month's rent be allowed to be applied to any month the landlord and tenant agree and that an additional one month's rent discount be allowed, which must be applied in the first or last month of the tenancy.

The rental market is currently very depressed in Ottawa. The removal of maximum rent will penalize many landlords who performed capital expenditures or otherwise justified rent increases which are much higher than the market now allows them to charge. Allowing landlords to offer a second month's rent as a discount only in the first or last month's rent should remove the negative reactions which tenants could experience from the discontinuation of a two-month discount spread over the whole tenancy.

1450

The proposed section 133 provides for a tenant to apply for a reduction in the rent charged if the landlord experiences a reduction in municipal property taxes. We request that this provision be removed, or at least that a rent reduction only be allowed if the pre-reduction municipal tax level has already been incorporated into the rental structure. We believe the whole notion of a reduction in the rent because of a reduced municipal tax bill is inappropriate in the context of rent being set at market levels on renewal. As is the case now in Ottawa, landlords may well be forced by the market to accept rents which are below the cost of operating the rental building. If the municipal taxes decrease, that is more likely to reduce the landlord's current loss rather than to increase a profit. The tenants gain the benefit of the market conditions when market rents are below costs. They should not have a rent reduction when the costs decrease.

This issue is of critical importance to property owners in the Ottawa-Carleton area. As you may be aware, the regional municipality of Ottawa-Carleton went through a region-wide reassessment in the late 1980s. This caused the municipal taxes to increase dramatically in many cases, in some instances tripling. The previous NDP gov-

ernment passed a regulation which prohibited landlords from applying for a rent increase to cover this increase in taxes if the tax increase was due to a municipality-wide reassessment. Unless the proposed section — I'm sorry. There seems to be a misprint in the document you have in front of you. What we are trying to say is that unless the proposed section is changed, we could end up with a situation of having had to absorb a tax increase and now having to reduce the rent should reassessment result in lower taxes. This must be changed.

Under the proposed subsection 128(7), the tribunal is to disallow a capital expenditure if in its opinion the capital expenditure "is unreasonable or of no benefit to the tenants affected by it." We request that this provision be removed.

As it stands, the provision is a major attack on a landlord's ability to manage his or her rental building. The landlord's above-guideline increase is already limited to 4% and to the cost of the capital expenditure amortized over its useful life. These limits mean that landlords have every incentive to do only reasonable or necessary work. It should not be for the tenants or the tribunal to second-guess the landlord as to the benefit of the work. Giving tenants that defence will lengthen hearings and increase the workload of the tribunal, increase the animosity between tenants and landlords, and put the tribunal in the position of substituting its opinion on property management for that of the landlord.

The proposed subsection 54(3) provides that where a landlord has performed renovations so extensive as to require vacant possession and a building permit, the landlord is not allowed the benefit of vacancy decontrol if the tenant exercises the right of first refusal. We request that the landlord still have vacancy decontrol in this situation.

To eliminate vacancy decontrol as proposed will dramatically reduce the renovation and repair work which is performed on many buildings which need that work. A significant number of units are so run-down that they need work in the order of \$10,000 to \$15,000 to be rehabilitated. This work cannot be funded at the limit of 4% extra rent increases, especially since the units in question often have depressed rents. Four per cent of \$400 is only \$16 per month, which will only pay for about \$1,200 of the work. The proposed restriction will cost many jobs and contribute to continued urban decay. The tenant's legitimate interests can be protected if the Tenant Protection Act provides that the landlord must meet a dollar test of the substantial nature of the work. Tenants will also still have the right of opposing a termination if the intended work is not sufficient to require vacant possession.

The proposed section 122 allows landlords and tenants to agree to capital renovations and increase the rent up to a maximum of 4% above guideline without an application to the tribunal. We request that in these situations, the 4% cap should not apply. Given that the landlord is only performing work that the tenant has agreed to for a rent

that the tenant is willing to pay, it is not reasonable that the government impose such a severe limit. This clause assumes that tenants and landlords are incapable of negotiating fairly and is an insult to both tenants and landlords. Allowing the two parties to agree on a rent conditional on the landlord performing the work that a tenant desires would be a major step towards improving landlord and tenant relations which have suffered because of rent control legislation.

The next set of suggestions I'm going to make deal with procedural rules.

The proposed section 168 does not include posting on a tenant's door as a means of service. We request that this means of service be included. Posting has long been a means of service under the Landlord and Tenant Act. That means of service is necessary if the tenant is not at home when a landlord calls by and the landlord cannot obtain access to the tenant's mailbox, which is often the case, and the landlord wants to save the five days that would be consumed by mailing the notice. We understand that the government is concerned with the disputes which sometimes arise as to whether a notice was or was not pulled down by other tenants. We submit that the tribunal can readily deal with such disputes, particularly since in an arrears application the tenant can pay the rent and reinstate the tenancy at any time until the eviction order is enforced.

The proposed section 178 provides for the tribunal to ascertain the real substance of all transactions. We request that it be amended to add that all decisions shall be on the real merits and justice of the case. This was included in all rent control legislation until the NDP's Rent Control Act. It has always been a feature of the jurisdiction of the courts. We submit that cases should be decided according to their real merits and justice and not on procedural or other formal criteria.

Finally, the proposed section 200 amends the Human Rights Code to confirm that a landlord has the right to request income information, credit checks, references, rental guarantees and rental history of a tenant applicant. We request that this section remain as it is. Current legislation and the proposed Tenant Protection Act do not alleviate this in any significant manner. Evicting a tenant is a lengthy and complicated matter, even in a straightforward case of a tenant not paying rent. A landlord's only defence is to properly screen an applicant before they become a tenant. Over the past few years, some groups, with the assistance of the Ontario Human Rights Commission, have attempted to prevent landlords from screening prospective tenants. This would prove disastrous not only for the landlord but also for tenants who are already residing in the building. Landlords must have the ability to check a prospective tenant's income and rental history.

In conclusion, we believe these changes will result in a decision-making process which is more efficient for the tribunal, as well as fairer to landlords and to tenants who respect their obligations. The current system allows a few

bad tenants to impose high costs on landlords and great inconvenience on responsible tenants. We understood that the purpose of the reforms was to allow responsible tenants and landlords to make their own agreements and to live in a better environment by enabling landlords to act more quickly and more effectively against the bad tenants who make life difficult for everyone else.

We believe the changes we have proposed will make the Tenant Protection Act better able to meet the goals of the government, as well as the goals of responsible landlords and tenants in Ontario.

The Chair: Thank you, Mr Caparelli. I believe there's time for a few questions.

Mr Cleary: Thank you for the presentation. You say eastern Ontario. Is that just the Ottawa area that you represent?

Mr Caparelli: No, we actually have members from as far away as Pembroke and as far east as Cornwall and that general area.

Mr Cleary: You request that the notice time period and the time delay to obtain a hearing be shorter.

Mr Caparelli: Correct.

Mr Cleary: Than it is at the present time or than it is in this legislation?

Mr Caparelli: Both. The way it stands right now, a landlord can't take any action until 15 days after he has served a notice. The problem then becomes that he can't get a hearing for, in many cases, several weeks. By the time all the proceedings are done, it may easily be three months before a tenant can be evicted. In the meantime, the tenant has not been paying any rent. If you own a duplex or a triplex, that rent that you're not receiving could represent 30% or 50% of your income, and banks are not in the habit of waiting for their mortgage payments.

Mr Cleary: I guess you're all in favour of speedier hearings?

Mr Caparelli: Correct.

Mr Cleary: On page 3 you say, "The proposal is weaker than the current law."

Mr Caparelli: Correct.

Mr Cleary: Another thing I was going to say about the tribunal: Is that any assistance to you as a landlord or is that better or worse than the present situation?

Mr Caparelli: We think the tribunal has the potential to be better for both landlords and tenants, simply because of the fact that it would be less formal and perhaps less costly.

1500

Mr Cleary: How do you feel that should be set up? Who should sit on that?

Mr Caparelli: Obviously we want well-qualified individuals to sit on this tribunal. We believe the tribunal itself should be provided with the proper resources so that hearings can be provided on a timely basis and so that landlords and tenants don't have to wait several weeks before they can get a hearing.

Mr Marchese: Mr Caparelli, what you really would like is no rent controls at all. Wouldn't that be the better solution?

Mr Caparelli: From our point of view, we believe the market would be the best system, correct.

Mr Marchese: You really don't like too many government interventions in the field of housing as it relates to landlords. Is that true?

Mr Caparelli: I think the experience of jurisdiction after jurisdiction has shown that the private sector can provide housing at a cheaper cost than the government can. I will grant that there are times when what we seem to have is an affordability problem. I do not think that cost should be borne entirely by landlords. That is a cost that should be borne by society as a whole.

Mr Marchese: I was going to ask you another question, but given that you said that, in terms of affordable housing, can you deliver affordable housing on your own?

Mr Caparelli: I think you've heard from other people already today that in order for the private sector to deliver affordable housing, several changes have to be made. This is only one of those changes which have to be made.

Mr Marchese: But simply with this change, affordable housing won't happen.

Mr Caparelli: This change by itself will not be sufficient.

Mr Marchese: And not in the near future.

Mr Caparelli: Not until other changes are made as well.

Mr Marchese: I think you're saying that for you to be able to provide affordable housing, some costs have to be borne by the general society, meaning the government, of course, because we collect money through taxes.

Mr Caparelli: Precisely. Or you have to lower the costs.

Mr Marchese: So governments should get out of the business because they can't do it. You can do it better, but you can't do it without them bearing some of the costs. Is that what I hear you saying?

Mr Caparelli: The reason the private sector can't do it is because of some of the costs that have been imposed on it by different levels of government.

Mr Marchese: And those are not some things that you would consider advantages that are given to you as a subsidy. You would consider that as almost a gross thing that happens, that things are added to your costs which are unfair and should be taken away. Is it something like that?

Mr Caparelli: I don't see how property taxes averaging twice on apartments what they do on single-family homes is a subsidy to landlords.

Mr Marchese: Has this government treated landlords fairly, do you think, or have they done you an injustice, or what? Do you think they represent you well these days?

Mr Caparelli: I think this proposed legislation is a step in the right direction. It's an improvement over what's there now. It certainly does not go nearly as far as we had thought it would.

Mrs Munro: I wanted to thank you for your presentation and the way you've been able to organize it so clearly for us in very specific areas. People have frequently come and talked more in terms of generalities. In this process, the more specific anyone can be, obviously, the better it is for the process.

I just have to comment on your final remarks, although they weren't what I intended to start my comments on. When you say you have a sense of disappointment that we haven't gone far enough, I think it reflects the concern we have in making a balanced piece of legislation. One of the tests of that is to have people on both sides who certainly can find reason to be critical.

I want to come to the question you have raised on page 12, because it is certainly one of the things that we as members of this committee have heard over and over again. It seems to be a very sensitive issue for many people.

You have suggested here that you want to see retained this opportunity to ask for the variety of things that are suggested here. I wonder if you have any comment for us as a committee in terms of the issue that so many raise who see this as a point of discrimination; for instance, the question of income, someone else making the assessment as to how much of their income is to be spent towards rent. I just wondered if you had a comment in regard to that issue that has been raised.

Mr Caparelli: There are a couple of comments. First, the thing that has to be stressed is that this is not something new; this is not a new right that has been given to landlords. Landlords, as we have heard already today, have always used a list of criteria, a list of questions they ask prospective tenants before they agree to enter into an agreement with them. Income criteria is simply one of many things that go into it.

We are well aware that some tenants will be able to easily maintain an apartment while paying 40% or 50% of their income in rent. Some tenants don't have the ability to do that. That's why, as I say, I'm not aware of very many landlords who would only use that criterion. If they did these days, I'm sure that they would have a lot of vacant units.

It's crucial that a landlord be able to continue to ask rental history, that they continue to be able to verify where tenants have lived in the past, and that they continue to know what kind of income is being made by the tenants. When you take all of these together, a rational decision can be made as to whether the landlord is in a position to rent to this particular tenant.

The Chair: Thank you, Ms Munro.

Mr Marchese: There's no follow-up?

The Chair: We're out of time, unless the committee — I'm at the pleasure of the committee. If I have unanimous consent, again, we can do anything, but the time has expired.

Mr Caparelli, thank you for coming.

FEDERATION OF OTTAWA CARLETON TENANTS ASSOCIATIONS

The Chair: Dan McIntyre, executive director of the Federation of Ottawa Carleton Tenants Associations, has been patiently waiting all day. Mr McIntyre, welcome again to the committee.

Mr Terence H. Young (Halton Centre): Mr Chairman, on a point of order: I wonder if Mr McIntyre would let the committee know how many active members he has and how a tenant can become a member of his association.

The Chair: I don't think it's a point of order. I can tell you Mr McIntyre has appeared before this committee many times and the Chair is satisfied that he represents a number of tenants in this area.

Mr Young: I don't doubt that. I'm just wondering if —

The Chair: Let's wait and see what he has to say. But I don't believe you have a point of order.

Mr Dan McIntyre: I might have a short point of order. I hope that doesn't count against my time.

The Chair: You don't have a point of order, Mr McIntyre.

Mr McIntyre: Secondly, I did want to go on the record saying that we are early by about 45 minutes. I just want to note that, because some of our tenant association leaders were hoping they could come by a little later, when we were going to be on. Frankly, we would have preferred an evening hearing, but c'est la vie.

I'm going to be very brief and allow lots of time for questions. In fact, I'm offering to the committee that I will stay here as long as you want to answer every single question you have and to answer as truthfully and frankly as I can, based on 15 years of experience representing over 100 tenant groups at rent hearings and working with thousands of tenants in this region alone. I'm at your disposal for the day.

We're here to tell you, the Ontario government, that the Tenant Protection Act is insidious and cancerous. It will drive up rents, reduce maintenance and other rights and not result in more choice for tenants. That's a professional assessment we're giving you, based on our experience. In our brief, which we're not going to read — you can read that on the bus or the plane — we're condemning the government for being afraid to listen to us and to look at the real facts about rent control protection for tenants.

The minister and the parliamentary assistant have never offered to meet with me, and I don't mean to be immodest, but I have more experience than anyone else from the tenants' side on rent control. I'm prepared to face any challenge, any argument, and I am still offering to meet with the minister, the parliamentary assistant, the government caucus or all of them to discuss at any length and to deal with each and every issue on a factual basis, because we've done our homework.

There are myths that this bill is based on. Those myths include rent control unfairly reducing rents, landlords getting no money for repairs, annual rent increases having

been fair and just and that tenants have too many rights. These are the same myths we've been hearing for those 15 years. Finally, they've got a government that seems willing to act on those myths.

Notwithstanding our frustration and anger so far, we are proposing 35 specific recommendations to improve the bill within the spirit of the bill. I'm aware of parliamentary procedure. It's passed second reading. That means the House has approved it in principle. We're offering you 35 ways to improve your bill, but we also need to take the time to put our feelings on the record, and the fact that the bill is built on false premises and therefore cannot survive. We wonder what's going to happen when it fails.

The reason that it is the ending of rent control — and people say, "No, it isn't, because we have this recontrol" — is this: What landlords have wanted for as long as I can remember is exactly what they get from this bill, and that is as a matter of right the ability to charge the last single dollar they can extract from the tenant's pocket. In other words, if the last single dollar is X — say X is \$900 — there is no check to see if that's fair, if that's reasonable, if that's necessary, if that's earned, what has been the history here or any kind of other thing. A proper rent control system would bring X into question and may lower it to Y.

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It permits landlords to do a number of things, to charge different things to different folks. It permits them to use advantageous negotiating abilities because they're holding the cards, they're in the business of being landlords. We're not in the business of being tenants. I've heard "professional tenant" cracks before, but we're not in the business of being tenants. The imbalance is startling between the parties. Sure, we want tenants to do as best they can within any system. We want to help them. But if you set up the system so it's going to fail, it's going to fail. That's what we have. You've given them this right.

It's so frustrating to us to have seen three different acts in action, and I've been very critical of all three acts. There was a myth put out this morning that the previous act was only put in from the tenant perspective. I spent most of our time last year in the discussion paper going over the history and some of the background of rents. The NDP was going to bring in a system far stronger than what they eventually brought in and the reason they didn't was because the landlord community got all over them like a dirty shirt and did their thing and there were some compromises struck. We don't need to dwell on those. That's that legislation; this is this one.

We have questions for the committee, mainly for the government. Why have you not tested your theories with experts in the field? Why are you afraid to talk to us? What analysis has been done about rent increases over the last several years? We have had legislation that has built-in allowances for different things. If you just do a simple spreadsheet and you look at for every dollar of rent that was being charged 12 years ago, what has happened to it

with the guideline increases, what has been put into it for capital components?

We worked it out last year and we shared it with the committee: 17.6% of rents is already there for capital expenditures. It's a simplified accounting thing. I realize there can be some ebbs and flows here. If you take the FRPO number of \$10 billion needed in capital expenditures and you take the fact that there's \$10 billion paid in rents, you can do all the capital expenditures in five years, unamortized.

We don't look at amortization costs when we're looking at the costs — or I don't think the government has. I hope I'm wrong. We don't look at compounding. That's what rents have done for the last 20 years. Put it on a graph again, put the amount of rent increases permitted just as the floor on the guideline, put it against inflation, compare it to the real costs and increase in rents for landlords and, as a whole — and there are always a few exceptions — they've done very, very well.

Then if you put in some of the history from the mid-1980s, when landlords were applying successfully for 30%, 40% and 50% rent increases which have compounded and compounded on costs that are now or soon will be no longer borne, those are the real facts. We invite you to look at that. I would love to sit down with you and take on every single issue that you can raise around this. We tried to do that last year. We offered to do that.

Somebody asked, "What rights does a landlord have?" They have a right to charge and collect rent. They have a right to get the last month's rent. There are several rights contained in the thing. We don't say to somebody who goes to Canadian Tire to buy something, "What right does the Canadian Tire store have?" It's the consumer who has rights because they pay the bill. That's how the system works: consumer protection. That's why this isn't.

The suggestion that you can't recover costs is totally disprovable when you look at the systems that have been in place. In fact, what has happened is costs have been recovered without being spent by putting in allowances that weren't checked on the rent control side.

Another myth we want to deal with is that tenant groups are philosophically driven and we just want to drive landlords into the ground. If that were the case, I would have been discredited years ago. In 15 years I have never had a tenant come up to me and say: "That's what we've got to do. We've got to drive all the landlords out of business. We've got to drive them into the ground."

They've said they wanted fairness and every piece of our work has been addressed to that. Yes, a little bit of a taffy pull, arguing with the landlord lobby in terms of what's right and what's wrong. But this suggestion that somehow tenants are being protected, some suggestion that this be in rent control, it's something that should have been dealt with, time should have been taken and we should bring in a system of real rent control. I don't think we're going to get that but we are proposing 35 recommendations.

I'd be delighted to take any and all questions and stay as long as necessary, including the question that Mr Young posed.

The Chair: I believe Mr Marchese is first.

Mr Marchese: I'll waive my time for the government.

The Chair: Very well. Mr Gilchrist is next.

Mr Gilchrist: I heard a reference that Mr Young had a question.

The Chair: Why don't we try Mr Young first.

Mr Young: My interest is how you communicate with your members. Do you have tenants who are actual members?

Mr McIntyre: Yes.

Mr Young: How do you communicate with them and how many tenants are members of your organization?

Mr McIntyre: We communicate by way of newsletters, by way of general meetings, by going out into communities meeting with tenants, meeting with tenant associations, helping them organize, helping them deal with the processes that affect them and so on.

Mr Young: How many tenants are members of your organization?

Mr McIntyre: We don't keep strict membership records. All tenants are eligible for our services. We offer, for example, a hotline service which handles about 5,000 calls a year. In our peak year we worked with over 30,000 tenants. They do not need to pay to be a member of the federation. It's not something that we're particularly concerned about. We are particularly concerned about fairness. We're particularly concerned that the government of Ontario has a system in place that is fair and equitable to all tenants.

Mr Young: So if they don't pay any membership dues or anything, how do you finance your operation?

Mr McIntyre: Right now, that's a loaded question. After several years we established a lot of credibility with the government of Ontario and got a contract with them that enabled us to do a lot of this public advocacy work that we've been able to do and we have been a partner with the city of Ottawa for about 14 years right now and we raise some money ourselves. The government of Ontario has cut us off completely and we won't be here next year, as it stands right now, to help tenants. They'll be at the whim of the Tenant Protection Act.

Mr Young: So you're funded by the province and the city of Ottawa?

Mr McIntyre: Not any more. Mr Leach cut us off in the middle of a contract.

Mr Young: So you're funded by the city of Ottawa?

Mr McIntyre: We have money from the city of Ottawa.

Mr Young: Thanks. That's all I need to know.

Mr Wettlaufer: Mr McIntyre, thank you for appearing once again. You say that landlords have rights. One of the rights you did not mention was that they have a right to make a profit. Do they?

Mr McIntyre: No, you do not have a right to make a profit in Canada in a capitalist system. You have a right to pursue a profit.

Mr Wettlaufer: Okay, they have a right to pursue a profit. You also stated that all the moneys that they have been receiving over the years they should have been pumping into maintaining their buildings.

Mr McIntyre: The current law says that 2% of the annual guideline is for capital expenditures. Many of them have received generous allowances over the years for various capital expenditures. There's also depreciation allowance.

Mr Wettlaufer: Perhaps you could enlighten us on how they might have saved the money for these allowances, given the view that they pay taxes on their income and given the view that the federal Income Tax Act does not allow them to build up a reserve to pay for these capital repairs.

Mr McIntyre: I would agree with you if you said to me there should be some changes to the federal Income Tax Act on the question of reserves. Nevertheless, the money was specifically allocated. It's like giving your kid a \$10 allowance to spend on a haircut and they go and play pinball with it. They're not doing what they're supposed to do with it. It was specifically allocated for that purpose. Their tax problems notwithstanding on the reserve question, it was an allowance for a specific purpose. Not only that, another allowance has been given to them and that needs to be taken into account. Second, the federal Income Tax Act does provide for depreciation allowances and capital expenditures actually expended.

Mr Wettlaufer: And some of those increases that they had received of 2% or 3% were during times of high inflation when their costs were increasing by 20% or 30% or 40%.

Mr McIntyre: No, that's incorrect, sir.

Mr Wettlaufer: That's not incorrect.

Mr McIntyre: Since 1986, the annual guideline has exceeded the rate of inflation 12 straight years.

Mr Wettlaufer: That's not incorrect, I'm sorry.

Mr McIntyre: Look it up.

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Mr Gilchrist: I appreciate your pointing out that the NDP campaigned that when they were elected they'd bring in rent control that would be tied exclusively to inflation. The guideline they drafted in fact was far from that, and I appreciate your pointing out it has been twice the rate of inflation.

My question to you, as somebody who is very familiar with the situation and in fact has taken this on almost as a profession, is that I would have to ask you whether you're aware of the unfairness that currently exists in the property tax treatment of apartments vis-à-vis the treatment of single-family homes. Are you?

Mr McIntyre: Yes, and I'm sure Mr Greenberg would want me to correct the record from this morning. In fact we made presentations for the Fair Tax Commission, we served on a committee of the regional municipality on tax

reform and have been making this point to various ministers going back to Mr Curling about the unfairness of the property tax system. We would have liked this government, which tells municipalities, for example, they're going to have to, whether they want it or not, take certain services on a downloading scheme, to dictate to the municipalities that they have to make the change.

Mr Gilchrist: In fact, the province is drafting the ratios that will become the standards for the municipalities. Let me just ask you, then, if you recognize it is the problem —

Mr McIntyre: It is a problem, yes.

Mr Gilchrist: It is a problem. Okay, that's fine. Given that — let me use Toronto figures as an example — every single tenant would see savings in the range of \$100 to \$125, which would work out to about a 20% decrease for the average apartment overnight, without cutting into the landlord's profit but simply by restoring fairness, I'd like to ask you what steps you are currently taking with all the city governments in Ottawa-Carleton, in this election year, to make sure that the tenants are aware (a) of the unfairness and (b) of the positions being taken by the prospective mayors and councillors.

Mr McIntyre: As I said, we have taken the same position for 10 years, that it's an inequitable tax, and we agree with your conclusion. If you made that as a first step, then we might be wanting to talk a little bit more about some of these things. However, we are on record, and every municipality knows we're on record — we're also on line, by the way. My colleague Stephanie David maintains a Web site for the federation, which has an article specifically on this point. We have made this point to every single municipal politician in this region and in the city of Ottawa over the years.

You know and I know what the truth is. The truth is that in order to make a correction in the tax system, you've got to raise the taxes of homeowners, and you know homeowners aren't going to stand for it.

Mr Gilchrist: That's their problem.

Mr McIntyre: I know. Our problem —

Mr Gilchrist: Can I expect to see you print a list of which councillors are or are not in favour of bringing tax fairness to the city of Ottawa?

Mr McIntyre: As a matter of fact, Mr Gilchrist, as a result of working on a committee at the region, this was brought to the region in terms of the proposals they would make to the Fair Tax Commission. Originally, my pushing for this resolution was defeated on a tied vote at the region and later was passed, if somewhat watered down. The region's position is that there ought to be a fair and equitable system for tenants paying taxes. Now, that's not quite as far as I would like them to go, but you can check with several councillors about my record on this issue.

Mr Gilchrist: That's fair enough, but I think I can make the point that there is nothing that would have a bigger impact on affordability. We're talking 20% reduction, particularly at the lower end and those that are geared to low-income families and those on government

assistance. It has the biggest percentage impact on them. I would think, over and above the sitting councillors, you would want to assess the positions of all the prospective councillors this fall.

Mr McIntyre: Absolutely.

Mr Gilchrist: I would entreat you, not just here in Ottawa but with your colleagues across this province, to raise that issue, find out that position and publish it, because we are completely in sympathy with that goal of tax fairness.

Mr McIntyre: As a matter of fact, United Tenants of Ontario, which we are part of, published an extensive brief on this, with input from groups around the province, and submitted it to the previous government and to the current government. We are on record on this. I think your math is pretty close in terms of reduction. I agree with you and I would call on this government to have the courage to force the municipalities to equalize taxes across the board. Passing the buck doesn't work in this case.

The Chair: The final word goes to Mr Cleary.

Mr Cleary: Thank you for your presentation. You say, "We've met with every Minister of Housing since Alvin Curling, but Al Leach ignored my offer to meet." Well, this side of the committee would give you permission to meet with him, but I don't know if that's any good to you or not.

Anyway, the other thing is the tribunal. How do you feel that should be set up? Do you think there's support there, that it will be better for your tenants?

Mr McIntyre: There is a specific recommendation we have in the brief. I would say, compared to some of my colleagues, that I probably have more of an open mind on that one than some others may have. I see it as possibly something that could work if given enough time to be put together properly, if checks and balances are in as to the people who are running the system and how they're running the system. The problem is that it's happening so fast that if this bill is enacted, say, January 1, 1998, which is predicted by many, the tribunal will just have to go holus-bolus and there may not be some of the systemic things done that could make it work properly and fairly and put in the proper protections.

But I'm saying to the government I'm open-minded on this and I would be happy to sit down and see if we can find a way to make it work. You had some excellent suggestions from the legal clinics today and excellent points about the duty counsel system, which has been a godsend to Ottawa tenants, who often call me on Monday saying, "I've got to go to court tomorrow. I don't know what to do. I don't know where to go," and I say, "Here's where you go and ask for the duty counsel." It solves so many problems.

There are so many things we can do to help, but unfortunately the government is sort of pitting us, because we're the ones who called for rent control and they're not too thrilled about that, and they don't want to look at the practical advice, at least not so far. Maybe Mr Gilchrist

will change his views on that, and maybe he'll accept my challenge.

Mr Cleary: The fallout from mega-week and the extra responsibilities municipalities will have, does that concern you?

Mr McIntyre: Absolutely, because according to the regional municipality, hardly a hotbed of socialism, chaired by Mr Peter Clark, this will lead to tax increases of about 10%; not my figures, Peter Clark's figures. All of those increases can be passed through to tenants in one fell swoop in the first year. The interesting double whammy is that this will then wend itself into the guideline calculations a year or two down the road, so we'll pay twice for it. I don't think that's fair. I don't think that's protection.

Mr Gilchrist: Mr Clark was wrong.

The Chair: Mr Gilchrist, please. Thank you, Mr McIntyre, for coming this afternoon.

Mr McIntyre: I take it you don't want to take my offer. I've got half an hour, an hour.

The Chair: Thank you for your brief. I know members of the committee will take the time to read it. Thank you, sir.

That concludes the public hearings of this committee in Ottawa. Before I adjourn until Monday, I wish to advise the committee that the hearings in Hamilton will start at 11 am at the Ramada Hotel, 150 King Street West. Unless there are questions about the Hamilton hearings, and seeing none, I will adjourn these hearings until 11 am on Monday.

The committee adjourned at 1528.

ERRATUM

In issue G-85, lines 1-8, inclusive, of column 2 on page G-4011 should follow line 8 of column 1 on that page.

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Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Monday 11 August 1997

Journal des débats (Hansard)

Lundi 11 août 1997

**Standing committee on
general government**

Tenant Protection Act, 1996

**Comité permanent des
affaires gouvernementales**

Loi de 1996 sur
la protection des locataires



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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENT

Monday 11 August 1997

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Lundi 11 août 1997

The committee met at 1100 in the Ramada Hotel, Hamilton.

TENANT PROTECTION ACT, 1996

LOI DE 1996 SUR LA PROTECTION
DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies / Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

HAMILTON AND DISTRICT
APARTMENT ASSOCIATION

The Chair (Mr David Tilson): Good morning, ladies and gentlemen. These are the public hearings of the standing committee on general government of the Ontario Legislature. We are today holding public hearings in Hamilton on Bill 96, which is the Tenant Protection Act, 1996.

We have the first delegation before us, the Hamilton and District Apartment Association: John Bruno, the executive director, and Derek Lobo, who is past president of the association and who has appeared before standing committees in the past. I'm sure many of us recognize him. Good morning, gentlemen. You may proceed when ready.

Mr John Bruno: My name is John Bruno. I'm the executive director of the Hamilton and District Apartment Association and have been since 1960. I'm going to briefly tell you something about our association before I turn the floor over to Derek Lobo, who will speak about the implication of the bill.

The Hamilton and District Apartment Association is a non-profit organization formed in 1960, and it is believed to be one of the oldest organizations of its type in the province. Over the last 37 years, it has grown to become the largest association of its type outside the city of Toronto. The organization now has some 350 active and non-active members representing in excess of 75,000 units throughout Mississauga, Oakville, Guelph, Brantford, Hamilton, St Catharines and the Niagara Peninsula.

Although I am not a landlord, I have been in the business of rental accommodation for 37 years. I know the

situation. We were in the business for 17 years prior to the implementation of rent controls.

We're going to leave ample time for you to ask questions. We polled our members to find out what was on their minds and what we were to present to you this morning, and implementation was the most important thing. I'm going to turn the floor over to Derek, who will go into this item more fully.

Mr Derek Lobo: As was mentioned earlier, I am a past president of the Hamilton apartment association. I've also worked as a rent review consultant for a number of years. I actually wrote this manual entitled *How to Take a Building to Rent Review*. Interestingly enough, this was for the Residential Rent Regulation Act. The single largest purchaser of the manual was the Ministry of Housing. I've done work in the last few years in both the private sector and the non-profit sector, helping apartment owners market their buildings and minimize their vacancies. I've also been an apartment owner in the past.

After a second reading, I think there's little chance that anyone will be able to significantly change the legislation, so I don't want to dwell on things that can't be changed, but I think there are some facts about rent controls that need to be mentioned. The main purpose of our presentation today is to discuss how we can make the legislation work and how to make rental housing in Ontario work.

Since 1975, there have been five pieces of rent control legislation. It seems that every time there has been a change in government, there has been a change in legislation. It seems that you're all trying to make something work that won't work. Based on Ontario's past history, if there's a new government in the next three or four years, we'll be sitting around this table again discussing a new version of rent controls. This has to stop. I'm sure you're also tired of the rubber chicken circuit, going around the province. This just isn't working.

I think you've got to ask yourself a question, and the question is this: Is there any jurisdiction in the world where rent control has worked? It's certainly not working in Ontario, otherwise we wouldn't have gone through this thing five times. It's not working in New York, it's not working in Berkeley, it's not working in New Jersey. If it has never worked in the past, it's likely not going to work in the future. But let me today take a leap of faith and say that the legislation does work and encourages landlords to maintain their buildings, build new apartment buildings,

and protects needy residents — although the best protection for needy residents is a free market, and we'll discuss why the free market is working in Hamilton today.

Rent controls are a political issue, and politicians use it in the political process. Let's just assume that this legislation does work, that a small miracle happens. If it does work, let's just leave it alone. We can't go on to a sixth, a seventh and an eighth form of this legislation.

There are two myths about rent controls that I want to talk about, and they apply more to Toronto than anywhere else. The first myth is that keeping rents low helps the poor. Well, indeed there are some buildings — again, they're in Toronto — where tenants are paying significantly less than the market could bear. These cheap apartments are typically in markets where the landlord is charging the maximum rent; he's charging the most he can by law. In most of Ontario, landlords are not charging the maximum rent. What this means is that the landlord could be charging X, but the market won't bear it so he's charging Y. For all intents and purposes, rent controls really don't matter. In Hamilton, the majority of owners are not charging maximum rent.

Cheap apartments, the kind you're trying to protect for the needy, are not rented to the needy. They go to people who are actually quite affluent and they have very low turnover. These apartments are never advertised and they're rented by word of mouth to friends of friends of friends, things like that. The average statistic in Ontario for turnover is about 25%, which means in theory that an apartment will turn over every four years, but that's an average number. Expensive apartments, where they're charging the market rent, turn over very often, and cheap apartments, with chronically depressed rents, turn over very seldom. Buildings with very low rents, the kind I'm talking about in Toronto, have a 10%-a-year turnover, and buildings with high rent have a 50% turnover.

Mr Gilles Bisson (Cochrane South): Did you say 15% or 50%?

Mr Lobo: It's 50%. That's not a surprising statistic if you're in the industry; that's a very common thing for buildings that have high rents, with transient populations.

That's the first myth. The second myth is that there's a perception that higher rents bring affluent residents and lower rents bring less affluent residents. That's not true. I'm sure you're all familiar with an area in Toronto called the Jane-Finch corridor. It has a bad reputation. Based on the public perception, you would believe that buildings in the Jane-Finch area have relatively low rents. They don't. In fact, they have very expensive rents. The rents for the building sitting right at the corner of Jane and Finch are typically \$800 to \$900 per month. The reality is that the buildings in these areas are rented to people who are economically distressed, they're often minorities and people who other people don't want to rent to. These people pay a very high percentage of their income in rent, there's overcrowding, and really, these people don't have a choice. Rent control has taken away that choice from them. If there was a large supply of apartments with

vacancies throughout Ontario, landlords would be competing for residents. They compete for them here in Hamilton; they're not doing that in Toronto.

The point here is that suppressing the rents artificially in some older buildings does not benefit the people that rent controls are supposed to protect. Indeed, there's no way for you to really protect the people, other than a healthy marketplace, with lots of vacancies, where rents are tumbling. Examples of that are Ottawa, London and Hamilton, where the free market is working. Most landlords in Ottawa, London and Hamilton are not charging maximum rent; they're charging something below it. They have to compete for their customers.

Hamilton is working. Tenants have a good choice of apartments and rents are probably falling, as opposed to rising. If you open up the Hamilton Spectator and count the ads, you'll probably see somewhere around 500 ads on a Saturday. It's similar in London, Sarnia, Ottawa, Kingston and Belleville.

Let's talk about the proposed legislation and how to make it work. There's a perception among politicians that a modified rent control system, with an exemption for new buildings, will encourage developers to build. For the housing sector to work in Ontario, we need building, and we need building desperately. We have a number of our clients who are developers and I ask them regularly, "What would it take to get you to build an apartment building in Ontario again?" I get many answers, that there's a problem with lot levies, land prices, unfair taxation etc, but it always came down to one factor: It came down to the fact that they can't trust the government any more because, quite frankly, they've been lied to. By that I mean that retroactive legislation has brought buildings under rent control; they've been told one thing, but the next government comes in and changes it. You can't run a business that way. One of my clients said: "I would have to be a lunatic to build in Ontario. Based on the last 20 years of experience, if I built a building today, what guarantee do I have that the next government that comes in won't retroactively bring in rent control legislation and undo everything the previous government has done?" You can't blame him. We're on legislation number five.

The answer, I think, is to somehow guarantee, and I want to stress the word "guarantee," to developers that rent control will not be brought in on any building that is built from now on. I think this means that you have to somehow — I can't think of the way to do it, but I would suggest that once a building is built, a certificate is issued saying that under no circumstances can a building be brought under retroactive rent control, so it's permanent and free forever.

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If the private sector does not build, that task is left up to the Ontario government. No matter what political stripe you are today, I think you'll agree that the non-profit housing that's gone on for the last five and maybe the last 10 years has been a financial disaster for the taxpayers,

and that's the only other option. If the private sector does not build, then that task is left up to the Ontario government. So either the private sector builds and there's some confidence built, or the government steps in and builds.

My experience in the rent review process went mainly from 1988 until about 1992, and I worked as a rent review consultant representing landlords through the rent review bureaucracy. We acted for many landlords. The bureaucracy itself seems to have a life and an ego of its own and it starts taking on its own personality. Rent review hearings that happen in forums something like this often become battlegrounds and there's a real polarization between landlord and tenant. I suppose it's the nature of the business, but setting up an adversarial process like that only makes things worse. Let me give you some examples.

Oftentimes during hearings, either the landlord party or the tenant party asks for an extension. So you wait two, three, four, five months for your hearing, you get into the hearing and someone finds they don't have a piece of documentation so they ask for another hearing, they ask for another extension. This happens over and over again. I worked on a case last year where the rent review officer granted six extensions and six different hearings. This went on in the evenings so that everyone could attend, and the order still hasn't been issued. This whole idea of granting extensions and things like that just doesn't work. It drags out the process and makes it very cumbersome and then the whole system starts to implode.

The solution is very strict administrative guidelines so that the entire case is thoroughly documented in front of the adjudicator at the time. You can't ask for extensions, you can't ask for time to provide more information, to bring expert opinion. You come prepared, you get your one opportunity and that should be it. I think that was part of the downfall of the previous rent review systems.

This is an extremely important point. The hearings should have defined time limits for people to present their cases, otherwise the submissions go on for hours and it actually turns into a battle of egos. The landlord should get time to present their case and the tenant should be allotted time to present their case, otherwise, in the open forum we currently have, it becomes a free-for-all and really just degenerates to pointless discussion and debate. Adjudicators of the Ontario Rental Housing Tribunal must be taught how to run a hearing and not be afraid to silence a landlord or a tenant to keep the hearing moving.

Adjudicators should also not be selected from the existing pool of ministry staff. All the weaknesses in the old system will be brought to the new tribunal. If you see this as a re-engineering of the rent review system, then bringing people over from the old system to the new system will just propagate the same rent review system we've had for 20 years that's been a bureaucratic nightmare that hasn't worked. I'm glad to see it's been taken out of the Ministry of Housing, but just moving the staff over I don't think is going to solve the problem. They're good people; find something else for them to do.

In terms of delays and backlogs, with the recent announcement of provision for transitional capital expenditures, there are going to be a number of applications filed, particularly in Metro Toronto. I don't know if there will be that many applications filed in Hamilton, Ottawa or London, because landlords aren't charging the maximum rent anyway, so where's the rush to go to rent review to raise a rent you can't charge anyway? There may be some applications, but in Toronto there's going to be a rush. This is going to cause exactly the same problem that was created when the Residential Rent Regulation Act came out and when the Rent Control Act came out. The legislation came out, owners rushed, filed thousands of applications, and right away the whole system fell apart and any kind of timeliness just went out the window.

I think in Toronto applications will be made sooner rather than later and that the new tribunal will be swamped to get out from under this workload. Then the mindset comes in, "Well, if you're one month late or two or three months late, it really doesn't matter when you're already nine months late." So if you let the system get bogged now, it's just not going to work. This is based on experience. We're not just saying this. Very strict guidelines have to be set out for making the system work. The computer programs have to be work the first time and they've got to be able to generate the orders quickly.

The Ontario Rental Housing Tribunal has to be held to a very high standard for the people who run it and it has to be a much higher standard than those that have been for the four pieces of legislation prior.

We'd be happy to accept any questions now.

The Chair: Thank you, Mr Lobo. We have an opportunity for a brief question from each caucus. We'll start with the official opposition.

Mr Dwight Duncan (Windsor-Walkerville): I want to pursue a notion, and I will place a question to you, given your experience, and I would also ask the government to note it and perhaps respond if they can now or at a later time. Representatives of other landlord groups have expressed the concern to me that not enough resources will be applied to the new tribunal and that there will be an immediate backlog created. There's a fear among those groups that this in turn will undo what the government is attempting to do with the streamlined processes. The figure that's been bandied about, just for the government's information, is that about \$17 million will be applied to this tribunal and it's been suggested that won't be enough to deal with the immediate problem. How do you recommend the government go about ensuring that this kind of immediate backlog doesn't occur?

Mr Lobo: I don't think it's an issue of money. I think it's an issue of approach. If you doubled it and put \$34 million at it, the backlog would still be there. It's approaching it from the point of view of not a civil servant-bureaucratic mindset. What you have to do is that you've got a time frame to get the application out, and the ministry should pay a penalty if the application is filed properly and it's not out in the allocated time. I don't think

it's a case of money. It's a case of the approach that's taken to solving the problem, controlling the hearings and just setting up a good system up front. It's a good question.

Mr Bisson: In one of your comments, you talk about how the current system of rent control, under the last five versions, has polarized the relationship between landlords and tenants. If I buy your argument, that tenants have too many rights — that's basically the argument on the one side — how does going to a system where the tenants lose rights and you give more rights to the landlords stop the polarization? I'm curious.

Mr Lobo: The polarization was created by the legislation in the first place —

Mr Bisson: No, no, hang on —

Mr Lobo: I understood your question, thank you. If you go to Alberta, there is no polarization because you never pitted landlords against tenants. If you go to Minnesota, it's not polarized. The legislation creates it.

Mr Bisson: I disagree. There is great polarization in both those systems. I've travelled a bit.

Mr Lobo: I think there's a great polarization in the NDP towards residents.

Mr Bisson: You're right, because we chose sides. We said, "We're on the side of tenants," and this government chooses the side of landlords. My question to you is, if you give more power to the landlords and less power to the tenants, it doesn't do anything to end the polarization. It only alienates tenants further and gives landlords more power. In the end, how does that stop polarization?

Mr Lobo: I don't think that I'm going to be able to convince you, no matter what I say.

The Chair: I don't either, Mr Lobo. Next questioner: Mr Gilchrist.

Mr Bisson: Chair, that's highly inappropriate.

The Chair: Mr Bisson, you're right. Perhaps that calls for an apology. The two of you were very argumentative. Your time has expired, but I do apologize. You're absolutely right.

Mr Steve Gilchrist (Scarborough East): Mr Lobo, I don't have to be neutral. I will agree that you're not likely to convert Mr Bisson, because he doesn't see that what he did and what rent controls are is an interference in the free market. You understand that. At the same time, we go to places like Ottawa, with 6.8% vacancy, one of every 17 apartments sitting empty. In the cab ride back to the airport yesterday, the cabby told us that you can buy town houses in Ottawa now for \$50,000, which carries for less than \$500 a month including taxes. Clearly, the marketplace has started to respond.

Here in Hamilton, if the government were able to provide you that peace of mind that there wouldn't be subsequent re-interference, what would that do as a stimulus to create new housing, and then in turn, what would new housing do for the tenants in the city?

Mr Lobo: There are some speakers coming up later on today who are builders, and you can ask them. They've built before; they stopped building in 1975 when rent

controls came in. But on the assumption that apartment buildings are built, it would benefit the needy the most. The higher the vacancy rate, the lower the rent. If you want a mandate to create good, affordable housing for the residents, do what you can to fairly drive the vacancy rate up, "fairly" meaning in a just way. That's what creates a competitive marketplace where tenants get the best advantage, landlords maintain their buildings and they serve their customers like customers. When you're 100% occupied and there's nowhere else to live, you lose that sense of customer service. And you can't raise your rents, so you say, "What's the point any more?"

The Chair: Mr Lobo, Mr Bruno, thank you very much for coming.

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EFFORT TRUST CO

The Chair: The next delegation is the Effort Trust Co, Arthur Weisz, chairman of the board. Good morning, Mr Weisz.

Mr Arthur Weisz: My name is Arthur Weisz. I would like to be very brief. I would much sooner have the panel ask me some questions about Hamilton and the surrounding area. We have managed for the last 30 or 35 years a big portfolio of apartment units, and we have never had the pressure and the problems we have today to maintain the quality of a unit and rent it on the market.

Not for argument, but just to tell you a little bit of the local situation, I'll mention a building in Hamilton, 140 Robinson Street. That's one of the last buildings built before apartment construction stopped completely. The building is a 130-unit apartment building. The market rent is about \$60 less per unit than rent control allowed on that building. The building still faced lots of vacancies. Now they're giving a month's free rent and they still have 10% vacancy in the building.

The Hamilton situation is maybe a little bit unique to Ontario. The Ontario population has doubled since 1956, from five million to 10 million. The Hamilton population in 1956 was 250,000 people; the mountain had 50,000 and the lower city had 200,000. Today, the mountain has 133,000 population and the lower city has less than in 1956; it's only 185,000. Since the government reduced welfare, of the group living in the lower city, in 1956 we had 10% welfare people. In the lower city today we maybe have 30%. I have no statistics, but that's my personal feeling. In the surrounding area — Ancaster, Burlington, Dundas — the population increased 300%.

There is no bigger waste of money in Hamilton than to maintain rent control. When your people get the information, we ask rent control how many applications they've had in the last five years. I never went to rent control for five or six years. It doesn't matter. They are expecting the taxes to go up about \$200 to \$220 per unit in Hamilton under the present situation. Nobody should be worrying that even the worst landlord could get away with

something in Hamilton or the surrounding area. Maybe in downtown Toronto there is pressure; it's possible.

But rent control, I honestly feel — take my word for it — is a complete waste of activity at the present time in cities like Hamilton. Nobody can hurt the tenants. Maybe we should save the money and maintain five or more hospitals open, and the people who are serving rent control right now should be used for something else; they are capable people and their quality is not used. I shouldn't have a ticket to China when I don't want to go.

Honestly, at the present time, regardless of which side I look at — the NDP side, the Liberals or the Conservatives — nothing is a bigger waste than maintaining a system that is not needed. Why should I change the tire on my car when I don't want to use the car? There is no worry, and that's my honest feeling. You can drive through Hamilton, there isn't a building in Hamilton where you haven't got a For Rent sign, and the landlords are doing everything they can to steal tenants from each other. There is no fresh blood in this city.

There is a real problem. The taxes are way higher on rental units. I don't know if the people know it, but an apartment unit is paying two and a half times more taxes than a single-family house. How do we justify that? We want to protect people; they have no money, and we're overtaxing them. You can only do so much with \$500 a month. Hamilton, Brantford, Guelph and Kitchener really don't need rent control. Maybe there is a small situation where you need it. When rent control came in in 1975, Hamilton had 8% vacancy. Toronto had a shortage. Why apply something to the whole province when you have an isolated situation? You can always introduce rent control anywhere when you feel somebody's doing something wrong.

I would like to have the panel ask me some questions. The previous presentation was very interesting, but my feeling is, save money and do something else with this money that is more important. I would like to see that a hospital is not closed for the money that is wasted to maintain rent control. We manage a large portfolio and we never went to rent control once, and there were many reasons for it. GST has been added to our cost and nobody went to rent control to recover that. There will be a big tax increase. What is the use to maintain something like this? That's my personal feeling, and I could demonstrate that is correct.

The Chair: Thank you, Mr Weisz. The questions start with the New Democratic caucus.

Mr Bisson: I have how long, about three minutes?

The Chair: Each caucus has time for a couple of questions, yes.

Mr Bisson: The premise of what you're saying is that in areas where you have high vacancy, like Hamilton, you don't need rent control. Then you said that in areas where you have low vacancy, maybe there is some need for rent control. Did I understand that correctly?

Mr Weisz: Right.

Mr Bisson: Then you went on to say that maybe we need to find a way to apply rent control only where needed, in Toronto or wherever there may be a low vacancy rate.

From the point of view of lawmakers, that's fairly difficult to do. How do you set up a rent control system that triggers at a certain vacancy rate and then how do you take it off if the vacancy rate goes back up again? You'd be constantly going into and out of a rent control system, depending on the fluctuations of the market. Lawmakers have to make a decision: Either you're going to have a system of rent control or you're not. That's basically the question.

In the case of the former governments — Tory, Liberal and NDP — there were decisions to move towards rent control because there were, in more cases than not, areas where low vacancies existed and high rents were being charged, to the point that it was very difficult for a lot of people who are renters. A political decision was made to institute rent control in order to stabilize the market somewhat. Yes, it was an intervention into the marketplace, no question about that. As a New Democrat, I never say rent control is not intervention in the market, because that's exactly what it is. But in the case of rental, it is one of the basic things we need to live. This government has decided to do otherwise. They've decided to turn the clock back, I would argue, more than 20 years, to go to a system where you don't have rent control.

The point I'm getting at is that even in Hamilton, where you have a high vacancy rate, there is going to be a cost to tenants in some areas. If it's not in price, it's going to be in some of the powers given to landlords in this act. For example, in this act a landlord could gain access to an apartment without the permission of the tenant under certain circumstances. Is that a right we want to be giving landlords?

You made a blanket statement that people won't get hurt. I take it that you're talking about just the market side of rental and not the powers and the rights the landlords have.

Mr Weisz: May I answer you very simply? I hope this committee gets information from the rent control people in our area about how many applications have they have had in the last five years. That will indicate whether rent control is needed or not. If Toronto has a lot of applications, the system maybe needed to be introduced. But we have a large portfolio. We are so anxious to maintain our tenants, you have no idea. Really and truly, we are fighting for them.

The situation created itself slowly. What is very healthy for the present situation is that you can almost buy a town house, with the low interest rate we have. So we have pressure in many ways. I am not saying that some cases couldn't be — but controlling the quality of the unit, we have a lawful building department checking when a tenant has a complaint.

The question is, should we spend \$50 million in Ontario for rent control when we don't need it, or should

we keep open five hospitals that have to be closed because we haven't got enough money?

I am not against rent control. Don't get me wrong. I would like to see that the market is working. We should replace rent control with some kind of other very easy — not a rent control type of thing. I hate to see that we're spending such a large amount of money and we get nothing. Nothing is perfect.

1130

Mr Ed Doyle (Wentworth East): How do you do, Mr Weisz? You mentioned the previous presenter and some of the comments he made. One of the comments he made was that he'd be crazy to build a new apartment today. Is that your view?

Mr Weisz: I'll tell you, it's even worse, much worse. When I made this statement, we don't have the amount of vacancy and the amount of pressure that we have today. I would say it's much worse, the chances that somebody will build an apartment. Even the interest rate is so reasonable. When you can borrow money for 7% and you don't build, it's much harder to understand than when interest was 10% and you didn't build. The interest rate came to a point that somebody could buy a house and it's almost as reasonable as rent. When interest was 10%, 11%, that was not — I would say under the present interest rate you don't see a crane in Hamilton. Not only don't they build an apartment unit for rental, they don't even build a condominium. There isn't a city in North America the size of Hamilton where you have not one overhead crane. That's showing that we have not one crane that is doing some construction. I don't see one.

Mr Doyle: In view of the fact that we have these attractive interest rates, what would it take in legislation, as far as you can see, in areas where there are shortages to get somebody to build a new apartment?

Mr Weisz: May I say there are no shortages. The shortage has to develop before we can make a statement. I would say the chances that anybody will build an apartment unit in Hamilton, even with the low interest rate situation, is completely out of hand.

Mrs Lillian Ross (Hamilton West): Hi, Arthur, how are you? Today, as a matter of fact, I just received a call from one of your tenants up on Mohawk Road West who is very happy living where he's living. Tell me, if rent controls were removed tomorrow, what would happen to his rent?

Mr Weisz: Nothing, and nobody's rent. I could show you letters here from tenants who are saying, "We are willing to stay when there will be no increase." I have a letter here, a tenant talks about a \$56-a-month reduction: "I am willing to stay although I have been offered something similar for a lower rent." It means the chances that any landlord or anybody in Hamilton or someplace similar to Hamilton could increase the rent for — everybody's rent is reduced, not increased. So the chances that could happen are very slim.

I have no problem with rent control. The only problem I have from a practical point of view is, why should we

maintain something that is not needed and spend money when we can spend this money on something that is needed? In Hamilton there's a big discussion about closing one of our major hospitals. We can save much more money. These people who are running rent control can do something else that is much more important. That's my personal feeling. I'm not here for and against; I'm just practical. I say this is not needed at the present time.

Mrs Ross: Can you tell me, what is the vacancy rate in the units that you now have?

Mr Weisz: I'll tell you an actual statistic. Some are really bad. I would say a year ago our vacancy rate was maybe 2%. Today it's 6%. In some cases the vacancy rate is 30% and 40% in buildings. You can't really say that the average vacancy in Hamilton is 7.5%. Some buildings have 20% or 30%. There are pressures.

Again, some buildings' rents are higher than they should be and now the market is adjusting. Nevertheless, I still maintain very strongly that any tenants who are worrying their rent in Hamilton will be increased because rent control is not controlling it, I think are making a mistake.

Mr Duncan: Thank you, Mr Weisz, for your presentation. I want to ask a question to get your perspective as somebody who is a well-regarded landlord in his community, and I frame it in a context — I don't want to sound argumentative, but I see a paradox in the arguments that I'm hearing from a number of landlords, and I don't include you in that, about the notion that in places like Hamilton and Ottawa and Windsor, where you're not at the maximum, where there's a fairly healthy vacancy rate, I believe the minister's assistant quoted 6.8% in Hamilton — so then what's the problem with rent control? You've got a market that's functioning freely in a community like yours. I think you've made the point that you see there's wasted money. The government, in other parts of the bill, tries to address the question of a fairer or more efficient process around rent control. What's the problem with the system of rent control if in most major centres of the province you're operating in an environment where there are vacancy rates that are high and maximum ceilings aren't being met? What's the problem?

Mr Weisz: It's very simple. There's no problem. We should not have it.

Mr Duncan: How does it interfere with the free market if you're operating in a market where you're competing very effectively?

Mr Weisz: May I say this to you. In our organization I have no problem with rent control because they don't bother me and I don't bother them. It's nothing. But the activity is useless; that's the problem.

Mr Duncan: The which?

Mr Weisz: The activity. We're maintaining something we don't need. I'm not here against rent control. It doesn't interfere with our operation. I am a decent citizen of Ontario and I see that money is completely wasted and doesn't do any good and we can use this money for something else that is much more needed.

Let's say, except for Toronto, Ontario doesn't need rent control. A year later, if we find that we are wrong, we can always introduce it. It's not the end of the world. But I am saying at the present time to spend so much money and keep people — there is no activity. The rent control people are not doing anything in this community to help the tenants or help the landlords. There's no activity. It's very simple.

Mr Duncan: You referenced how Hamilton has changed in the course of time that you have been doing business. I wonder how factors such as 5% down payments on homes today versus much higher figures in years gone by affect the development of new rental accommodation, people making choices between ownership versus rental. We did a little bit of research and found that right across the board, whether or not there's been any kind of rent control, there have been increasing percentages of people who get into their own ownership situation first, and therefore the supply question isn't exclusively affected by rent control. There's a whole variety of other factors. We've addressed a number of them around this table and in our debates about the supply of rental housing. Could you just share your views on that, how the market's changed over the last few years?

Mr Weisz: May I say this to you: The rental market is suffering greatly for many reasons — reducing welfare. We're suffering greatly. It's maybe important the panel should know that a lot of senior citizen people were the best tenants in a building because they didn't move. They moved into a building, they were living there many years. Our normal changeover, and the previous people mentioned it, was a very healthy 10%. Normal was 20%. We have 40% to 50% today. It's unbelievable.

We see this advertising in the paper every time: "Why rent?" I'm saying at the present time, really and truly, the rental market is under great pressure. The landlord who wants to rent his unit has to do anything he can: free rent, no deposit. When you look at the Hamilton Spectator, I just brought a couple of things: "A month's free rent when you sign a one-year lease."

What I'm saying is the pressure is the opposite. We are here to make sure that nobody is a victim of circumstances. Now I would say almost that a year from now or five years from now we'll be talking about the landlord needing some help because he can't maintain his buildings. We're facing a major problem and nothing is worse than that the building is not maintained. Who wants to see that owners are walking away from their buildings? Who will look after them? I came from Europe 50 years ago and I went back for the first time 30 years later and under the administration that existed there, nobody did anything. It means that buildings fall apart completely. It's important that we give a healthy balance here so that the building can be maintained.

The Chair: Unfortunately, Mr Duncan, we're out of time.

Mr Weisz, thank you for coming this morning and making a presentation to the committee.

1140

BETHLEHEM HOUSING PROJECTS OF NIAGARA

The Chair: The next presentation is the Bethlehem Housing Projects of Niagara. I have three names: Mary Dool, Mark Eshuis and Carolyn Bostock, who are members of the board. Good morning, ladies and gentleman. We have your brief before us. You can proceed when ready. Perhaps whoever the speaker is can identify themselves.

Mrs Mary Dool: My name is Mary Dool and I have with me Carolyn Bostock, who's a member of the board and was a resident of Bethlehem Place for two years and one of the first members to be elected by the residents to represent them on the board of directors. Since leaving Bethlehem, she has been re-elected as a member of the community at large. This is Mark Eshuis.

On behalf of Bethlehem Place, we want to thank you for the opportunity to respond to Bill 96. As a non-profit supportive housing provider, Bethlehem Place appreciates the efforts of the government to amend the Landlord and Tenant Act in order to reduce costs, decrease bureaucracy and to provide more flexibility for groups offering care or rehabilitative services. As you know, the proposed legislation, as outlined in 3(k)(ii), allows programs where the living accommodation is intended to be provided for no more than a year to be exempt from the act. While this change from six months to one year is a commendable one, for us it doesn't allow sufficient time for many of the people to whom we give service to establish the kind of stability and to develop the self-esteem, skills and confidence they need to move on. Currently what we're doing is operating under the Landlord and Tenant Act and use the grounds-to-terminate clause for rehabilitative programs. That's clause 110(3)(f) of the Landlord and Tenant Act. In the proposed legislation the grounds-for-termination clause has been removed from the act.

Before explaining more fully the impact of the changes to the act on our services and our recommendations to you, we would like to briefly describe the nature of our program.

Bethlehem Place is the only second-stage rehabilitative program in the Niagara region which provides an integrated approach of housing and support services to men, women and children. Since 1988, we have been serving people who are experiencing major crises in their lives, most of them coming from pretty chaotic kinds of backgrounds. They want to develop the skills and stability necessary to move on to independent living.

We have a 27-unit apartment building in downtown St Catharines which accommodates approximately 65 people. The maximum length of stay is two years. The average length of stay over the past year was 16 months. Examples of the kind of people we're serving are victims of abuse — we have large numbers from that group — people recovering from addictions; people with disabilities, both physical and mental health problems; people

with significant emotional difficulties who are suffering poverty or have very limited skills. One of our largest groups is those who need to learn parenting and other skills of daily living.

I think an indication of the high degree of credibility and visibility that the Bethlehem program has in the community is that we have over 30 agencies referring to Bethlehem Place both individuals and families who require intensive community support and skills training. Referrals are made to Bethlehem when community agencies determine that the individuals and families require greater support and practical assistance than our traditional services can provide. One of our main referents is Family and Children's Services of St Catharines, which is the children's aid society of the Niagara region.

I was a social worker there for 26 years and I think I can attest to the tremendous value of this program for people such as a single mother with children who really wants to be a good parent but lacks the knowledge and the parenting skills to do so. Prior to this program being available, as social workers we found that quite often we had very little alternative but to take these kinds of children into foster care, and that's of course at a great emotional cost to both the parent and the child, to say nothing of the financial burden on the province, since I think the cost of one child in foster care for a year is something over \$17,000.

Problems are compounded by the fact that the majority of residents do not have positive families or social networks to assist them to make positive changes in their lives. Bethlehem Place substitutes for this lack of supports by providing a very positive, caring environment where people learn to leave behind the damage of physical or sexual abuse or an addictive lifestyle or debilitating low self-esteem and where they also learn a great many skills. We have very proactive programs to provide parenting skills, to provide budgeting, general living skills, help with addictions. We use many resources in the community, such as the public health nurses to teach infant and child care; we use social workers from the mental health clinic at the General Hospital; we use workers from Family and Children's Services.

Being part of this kind of program and of the Bethlehem community provides opportunities for people to develop social skills, family skills, parenting skills, relationship skills, and to develop social networks which will sustain them when they move on into independent living in the community. Over 500 people have moved through the program at Bethlehem Place into the community since its inception in 1988.

Mark Eshuis is going to talk to you about the impact of the proposed changes to the act on this program.

Mr Mark Eshuis: Proposed legislation 3(k)(ii), as Mary said, allows rehabilitative programs such as Bethlehem Place where the living accommodation is intended to be proposed for no more than one year to be exempt from the Landlord and Tenant Act. The respectful submission of Bethlehem Place is that this one-year time period is not

sufficient time within which to allow people to become self-sufficient and independent of any governmental support. They need time to recover from the abuse that they may have suffered, to learn parenting skills, and thereby become self-sufficient.

Bethlehem Place residents, as I said, need more than one year. Therefore the Landlord and Tenant Act would apply. Bethlehem Place currently operates under the Landlord and Tenant Act as a housing program solely for the purpose of rehabilitation. More particularly, it uses the grounds-to-terminate clause for rehabilitative programs, which is found in section 110(3)(f). Unfortunately, the proposed bill removes this section from the act.

As you may know, what section 110(3)(f) says, to paraphrase it, is that a tenant who occupies accommodation solely for the purpose of rehabilitative services agreed upon between the tenant and the landlord is not permitted to live in these accommodations for longer than two years. To use these particular grounds for termination, Bethlehem Place has developed a detailed tenancy agreement which implements the specific required provisions and sets out the rehabilitative goals of Bethlehem Place. Through this tenancy agreement which we have developed and the agreement to terminate a tenancy form, which is form 1 of the Landlord and Tenant Act, these two documents reinforce to the resident that Bethlehem Place is solely for the purpose of rehabilitation.

Currently what Bethlehem place does is it contracts with the residents for shorter periods, up to a maximum of two years, to keep track of the resident's progress and to ensure that the resident's program terminates when the objectives of the services have been met or it's determined that they will not be met. Just as an example, the first contract generally is set at four months, the second contract is at 12 months and the third contract ends at 18 months. This allows Bethlehem Place to assess if residents are meeting their rehabilitative goals.

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It's our respectful submission to you that Bethlehem Place is a unique program. Most rehabilitative programs deal with individuals. Bethlehem Place often deals with dysfunctional families, which requires more time. As Mary pointed out to you earlier, the residents have problems with abuse, addiction, mental health and lack of parenting skills, to name a few. Bethlehem Place's program works towards skill development, goal setting, increased coping capacities and establishing social and support networks. It's our respectful submission to you that the proposed one-year exemption is insufficient for people to develop skills and stability to make a successful transition to independent living within the community.

With the removal of section 110(3)(f), Bethlehem Place's rehabilitation oriented tenancy agreement will be ineffective. Bethlehem Place would be required to apply to a tribunal to transfer a resident as proposed under section 93(1)(a) and (b). Under section 93, residents may perceive Bethlehem Place as permanent housing, which would severely limit the number of people Bethlehem Place could

serve and promote long-term dependence on our services. This would severely reduce the effectiveness and rehabilitative benefits of our service provision.

As just a quick conclusion to what I've said, the removal of section 110(3)(f) decreases Bethlehem Place's flexibility and places an unrealistic time restraint on Bethlehem Place residents to prepare for independent living. The pressure of having to move out within the time frame of 3(k)(ii) of the proposed legislation would seriously jeopardize our residents' ability to participate and benefit from the program.

On page 3 of our handout, which you all have, our recommendations are in subsection (4). We request one of the following two options as a solution to address our concerns: that the current clause (f) of section 110(3) of the Landlord and Tenant Act remain in effect to allow us to continue operating under our current tenancy agreement; or in the alternative, reword exemption 3(k)(ii) of the Tenant Protection Act, 1996, to read that the living accommodation is intended to be provided for no more than a two-year period.

Ms Carolyn Bostock: I'd like to start off by reading a small portion of a speech that I gave at the annual meeting in 1995 while I was a resident at Bethlehem Place:

"I'm a single 33-year-old with no children who has been living at Bethlehem Place for almost two years. I have a history of childhood physical, sexual and emotional abuse. My first years of life were spent with an alcoholic parent and the cycle of abuse continued into my adult life. I was suffering from a crippling lack of self-esteem and chronic depression. I felt very alone and scared.

Then I found Bethlehem Place. I would like to be able to say that I was immediately enveloped in feelings of purpose and community, ready and willing to do whatever it took to turn my life into something manageable, but it was a long, hard struggle. Making changes is difficult. Making major changes can seem impossible.

"I was encouraged to become the chairperson of the newsletter committee and a member of the residents' council. I reluctantly agreed to try, but I was concerned: How could I speak in front of groups? Who would listen to me?

Then amazing things started to happen. Through working on my committees, I found my voice and my strength. My self-confidence increased and I started to take more risks. I no longer wish to be invisible. I now have a growing support system and I feel less alone than I have for years. I have found courage and I'm learning to give support as well as receive it. I'm a very different person from when I first walked into that building. I have developed more self-assurance and have a more positive outlook.

I have also learned to be more compassionate with myself and others. I'm grateful that Bethlehem Place was there when I needed them. I thank the staff and the volunteers who make Bethlehem Place a special place. My two years are almost over. The once shy, angry person who didn't want to be there is now sad that the time has

gone by so quickly. But I'm ready to face tomorrow with hope and strength."

That's what I said two years ago and that's what Bethlehem Place has done for me, but it wasn't easy. It takes a lot of hard work and time to make changes, and I know that one year would not have been enough time. It takes time to build a trusting relationship with a counsellor and it takes time to establish goals and plans and put them into action.

When a person makes positive changes in their life, the benefit is not only to themselves but to the people around them. When many people make positive changes, as happens at Bethlehem Place, the benefits are immeasurable. A strong, healthy, self-reliant individual becomes a better person, a better neighbour and a better Canadian.

Two years ago when Bethlehem Place was hit with a major funding cut, we were devastated. A cut in time allowing people to go through the program would be equally devastating and seriously impact the ability of the staff to care and nurture hurting individuals and families. My two-year stay at Bethlehem was the best investment of time I have ever made. I have moved on, having increased confidence and knowledge of myself and those around me and the ability to deal with the past and look forward to the future.

Mrs Dool: That's concludes our submission. Thank you very much.

Mr Gilchrist: You've raised a very good issue and I'd like to start off by thanking you for your presentation, and in particular thanking you for your good works and proving that community-based care is exactly where the focus should be. I appreciate your personal anecdotes, Ms Bostock.

Let me just say I'm aware that you've been raising this issue with the ministry staff and you've given us two options. The Speaker reprimanded us once for presuming that bills even pass, so I'm not going to presume that any one amendment will pass, but let me just say we're very sympathetic and you can rest assured that we'll be coming forward with what we believe will be a very satisfactory resolution to your questions. We are very sympathetic to the position you've taken here and we appreciate very much the time you've taken to alert us to this need to improve the act.

Mr Duncan: Thank you for your presentation. I too have heard of your good works from my colleague the member for St Catharines, Mr Bradley.

I wonder if I might ask you a question related to part IV of the act. This particular section of the act has been the subject of some controversy and difference of opinion. As I understand your organization today, your goal is to help people get back into an independent living environment in as short a time as possible. You're a non-profit organization, I take it?

Mrs Dool: Yes, we are.

Mr Duncan: My question is this: The concern with this section of the act, and I'd like your experience with this, has been that there are situations where there are

vulnerable people who can now be removed from their rental accommodation. I'm referring specifically to section 93, the transferring of tenancy. Given your experience and background, do you have any advice to the government on this section?

It's been suggested by other caregivers, other people who have an interest, that perhaps this section gives too much power to landlords in situations where people are perhaps not able to be reintegrated into the community. Do you have any thoughts on that general section?

Mrs Dool: Yes, I think that is a concern. There are many people who cannot be integrated in the community. A particular concern we have at Bethlehem Place with the decrease in provision of non-profit housing is that even for our people leaving, when we have made a decision that they're ready to move on, the fact that there isn't accommodation out there for them is going to increase the problem or maybe decrease the kinds of gains they made at Bethlehem Place.

Mr Bisson: We've probably run out of time. Thank you very much for your presentation.

Mr Chair: We have run out of time. I know members would have lots of questions, but we have literally run out of time. Thank you for coming this morning.

Mrs Dool: Thank you so much for your attention.

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WILLIAMS AND McDANIEL

The Chair: The next presentation is Williams and McDaniel, Clark McDaniel. Good morning.

Mr Clark McDaniel: Good morning. Mr Chair, members of the standing committee, my name is Clark McDaniel. I wish to thank you for the opportunity to address the issue of the Tenant Protection Act in a public forum.

I represent the Guelph and District Apartment Owners Association and I am also a principal of Williams and McDaniel of Guelph, which owns and manages approximately 1,200 apartment homes in south-central Ontario. We've been in the business of apartment ownership and management since 1977.

We have made representation to various government departments concerning rent control in Ontario on various occasions over the past 19 years, as we realize that governments require input from the apartment owners' perspective in order to formulate a viable housing policy.

We are generally pleased with the direction the present government is taking with the Tenant Protection Act. However, we have a few areas that we feel could be and should be addressed to make the legislation fairer and more responsive to the needs of all parties.

The first item we feel should be amended is the matter of the loss of legal maximum rent. By taking away legal maximum rents on first turnover, this legislation retroactively confiscates rent increases earned for capital expenditures completed on our properties. This problem becomes more apparent in soft rental markets, for exam-

ple, when plant closings and government cutbacks mean that a building that has had capital expenditures completed on it under past rent control regimes is not able to collect the increase temporarily. The fact that the increases were qualified and approved becomes irrelevant.

For example, when a tenant vacates a unit, the rent perhaps is left the same and the owner loses the legal maximum rent level he has earned. This perhaps should not be allowed to happen. The legal maximum rent should be able to be carried forward until such time as the market allows the earned rent level to be implemented. The legal maximum rent in this case should be allowed to increase with the guideline each year, as is currently the case.

If tenants are afraid of large increases as rents are brought to the legal maximum levels, a cap could be in place to ensure that these increases are implemented gradually. The issue here is fairness. Owners get paid for their capital expenditures and tenants experience increases that they can budget for.

Second, future capital expenditure costs should be able to be phased in beyond a two-year period without re-applying. Legislated expenditures such as the fire code retrofit items should be exempt from the cap, and the cap should be in the 5% to 7% level. Smaller caps remove the incentive for owners to do capital expenditures, because of the slow payback period.

Third, there is a need for a minimum dollar increase as well as a percentage calculation to avoid penalizing low-rent units and widening the gap from market rents. As well, there should not be a cap on the ability of owners and tenants to agree to a mutually acceptable rent increase. This would also include the ability of owners and tenants to agree on separate and additional services and charges.

Finally, the proposed Ontario Rental Housing Tribunal is a move in the right direction, provided it is adequately funded and monitored. This less formal system of adjudication is welcomed by owners, and I'm sure by tenants. This tribunal must be free of political bias and be staffed by individuals with the appropriate qualifications. The tribunal must have the ability to control process and command authority. Timely decisions are imperative to ensure both owners and tenants maintain confidence in the system. Provisions must also be considered to dissuade frivolous applications from both tenants and owners.

In summary, the final format this legislation takes must be such that both owners and tenants believe both are being treated fairly. Years of experimenting by governments of various stripes have left both owners and tenants cynical. Owners require confidence in a system before investing much-needed capital into their buildings, and tenants require confidence that they will receive value for their housing dollar. Politicians must also realize that they cannot use rent control as the political hot potato, as they have in the past two decades.

Thank you for this opportunity to present our views and concerns on this very important piece of legislation.

Mr Duncan: Thank you very much for your presentation. The two points you've addressed have been raised by other landlord organizations. I want to come back to your second point, the question of the proper administration and funding of the tribunal. Earlier I asked the same question of a prominent Hamilton landlord. He expressed his view that money wasn't the issue in terms of the proper functioning of the tribunal, that they're simply administrative issues. I wonder if you could elaborate on the points you made in that area for my benefit and the benefit of the committee.

Mr McDaniel: When I refer to funding, the tribunal needs to have the resources available to it to enable timely decisions to be made. Under past regimes, back to 1976, we were always frustrated, both landlords and tenants, by delays because of there not being enough commissioners under the old system, not enough administrative staff and delays that went on for months, sometimes a year and a half. It was very difficult for both parties.

Mr Duncan: Would I be properly paraphrasing you if I were to say that in order for the new tribunal — and the government has I think properly argued that it's a more streamlined process, that the positive benefit that could accrue as a result of those changes could be lost if it's not properly organized and funded from the outset?

Mr McDaniel: That's correct, yes.

Mr Wayne Wettlaufer (Kitchener): Thank you for appearing before the committee. You specifically stated your concern about the fact that we have not included a provision to deal with the loss of legal maximum rent. I share some of your concern in so far as chronically depressed rental units have been found to be a problem in Massachusetts, New York, British Columbia and Ontario. We would like to deal with that, but perhaps you have an idea how we may be able to.

Mr McDaniel: My main point here was with buildings at large, not specifically chronically depressed rents, the impact of losing the legal maximum rent. For example, we have a property in Sarnia, and the Sarnia area as a whole has been depressed for the last number of years. There have been considerable expenditures put into this particular building because it was necessary to provide good accommodation. Because of the softness of the market we will not be able to implement those increases that were justified, and once we establish a new rent level on turnover, those are gone.

What we would like to be able to do in those circumstances is for those to be maintained, so that if and when the general economy in that area turns around, we can get paid for the considerable work we've done to keep the building in good shape.

Mr Wettlaufer: Did you find that in those units the problem was similar to other areas, where they were not being occupied by low-income tenants but rather by tenants who had sufficient means?

Mr McDaniel: The building is just a typical apartment building with residents who cover the whole spectrum: working, seniors, young adults.

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Mr Gilchrist: Thank you, Mr McDaniel. I appreciate your taking the time to make your presentation before us here today. Two very quick things: First off, just to comment on Mr Duncan's question to you, we are committed very much to providing whatever resources are necessary to make sure the new tribunal is the most efficient, most effective, most focused way of delivering a rent review system in this province. Certainly it will have an initial budget, but the minister has made it very clear that this isn't about cost-saving; this is about improving a system that right now has seen a number of delays built in as a result of using the court system — and some parts of the province are worse than others. Our goal is to do something that provides for a far faster and far fairer administration of the disputes that may arise between landlords and tenants.

Let me pose a question to you, because as somebody with that many apartments yourself, you'll no doubt have a perspective on this that will help the committee in terms of its deliberations about where the real problems lie in the rental system in Ontario.

One of the speakers earlier this morning indicated that the property taxation on apartments is two and a half times that of a single-family home. Actually, he's being conservative. Province-wide, the average is four to one. In downtown Toronto it's as high as 6.2 to one. Imagine that: an apartment paying six times as much tax as the a single-family home the same size. In a companion piece of legislation we've now given municipalities all the tools — if in fact they ever needed any, but now they have no excuse — to bring fairness back to the taxation system.

Would you hazard a guess in your community up in Guelph of what that imbalance works out to per month per apartment right now? If your property taxes were rolled back to what they should be paying comparable to the level of a single-family home, how much of a saving would that be for your average apartment?

Mr McDaniel: Would I be correct in making the correlation of a single-family home that's worth \$120,000 in Guelph and what taxes it would pay, and what the corresponding apartment unit would be worth and what taxes it's paying?

Mr Gilchrist: You could approach it that way, or even with an ultraconservative two-to-one ratio — knowing what property tax you pay per building, if you divide that by the number of units and then cut that in half — what would that saving be? I'm not trying to put you on the spot, but just a ballpark figure.

Mr McDaniel: On a typical Guelph building, the property taxes are about \$1,200 a unit per year.

Mr Gilchrist: So a saving of \$600 a year would be realistic, and that's in a municipality that was only two to one, not Toronto, which is six to one.

What does the average apartment in that building rent for?

Mr McDaniel: It's \$675 a month average, one-bedroom and two-bedroom.

Mr Gilchrist: So you're looking at about an 8% reduction in the total rent bill overnight. Would you have any problem with the concept that any property tax reduction flows through directly to the tenant?

Mr McDaniel: No problem with that concept, no.

Mr Gilchrist: It's obviously not something that's part of your profit margin. Could we then deduce from all we've just discussed here that in terms of the real impact on tenants one of the biggest problems right now is the fact that municipalities have not found it in their hearts to deliver that fairness? Given that this is an election year, this might be something where both landlords and tenants would share a mutual interest in raising the issue and making sure you get commitments from prospective municipal councillors starting their term next year, get an answer from them where they stand on this issue.

Mr Bisson: They are all running to council chambers to lower taxes already. I can see it coming.

The Chair: Mr Bisson, please.

Mr McDaniel: It's difficult for us as owners. We're one vote in a municipality, for example, in a 50-unit apartment building. It's difficult, as one voter, to rally the forces to get the support we need to go to city hall to effect the type of change we wish.

Mr Gilchrist: What about raising the issue with your tenants and letting them be the squeaky wheel? Would that be something you would see as a feasible course of action?

Mr McDaniel: I could see that being appropriate maybe as the next year or two unfolds because of the fact that as new home construction costs — for example, the tax imbalance adds to the disadvantage of the renter. As that becomes more apparent and we lose more of our residents, buying first-time homes, we become less competitive. I could see that being the driving force behind us doing that type of thing.

The Chair: Thank you, Mr McDaniel. The committee thanks you for coming this morning.

Mr Bisson: Mr Chairman, I have a question to the parliamentary assistant.

The Chair: I guess you can wait your turn. We'll see what happens when the rotation comes.

Mr Bisson: No, we're allowed to ask the parliamentary assistant for advice or information with regard to the bill.

The Chair: Why don't you ask the question now, Mr Bisson.

Mr Bisson: Thank you very much, Chair. You're very helpful this morning.

The Chair: Indeed.

Mr Bisson: To the parliamentary assistant: You are indicating that municipalities are going to have the ability, if they didn't have already, to lower municipal taxes. Can you give us a list of what municipalities in Ontario have entered into any kind of discussion, or even hinted in the remotest fashion, that they're going to lower municipal taxes as a result of this legislation?

Mr Gilchrist: The region of York has indicated that they accept the fact that on January 1 they will have considerably lower taxes and they intend to pass that along in the form of a tax reduction. I'm not going to sit here and debate the whole Who Does What initiative with you, but there are many, many municipalities that have already come to that conclusion, as you're well aware. Metro Toronto, by the end of this month, will also be in a situation where in all likelihood you will see a reduction as a result of the transfers. Far from the \$500-million increase, you're going to see a decrease.

Mr Bisson: You've answered my question, and it's for the record.

Interruption.

The Chair: I'd ask members of the audience who are speaking to wait until your turn comes. We simply can't have interjections from the audience. No committee Chair allows it, nor do I, sir — you in the front row.

SID BARNETT

The Chair: The next delegation is Sid Barnett. Good morning. Actually, I guess it's afternoon; quarter past 12.

Mr Sid Barnett: Thanks for listening to me. I don't represent anybody but myself. I'm a landlord and have been for a long time.

My impression from what I've read in the paper is that you've heard pro and con, both sides, on everything to do with what they call vacancy decontrol, if that's the label for the new plan. I don't have anything new to say on that. My opinion coincides with the bulk of the landlords, who regard it as continued rent control. We don't regard it as a natural phasing-out; we regard it as a continuation of rent control. In some respects it may be less onerous than in the past, in others it may be more onerous, but it's a continuation, and the bureaucracy remains. Minor changes in the legislation could make it much worse or much better in the future, but it's a continuation. That's the general view.

I don't really have anything to add to everything you've heard from anybody else, the different opinions. What I would like to address is the landlord and tenant side. Regardless of what the rent is, regardless of the rent control law that is ultimately enacted, the new legislation addresses the relations between landlord and tenant. Tenants misbehave, landlords misbehave, and how do they deal with their relations? In the existing legislation the matter goes to court, and under the proposed legislation you have a tribunal that will deal with those issues.

The point I want to emphasize, if it hasn't been made — and maybe it has — is the reality that any landlord knows, that any landlord experiences every time he appears before any tribunal, whether it's a court or a rent control tribunal, a building standards tribunal, any kind of tribunal in which he is classified as a landlord and there is an opposing tenant. The point I want to emphasize is that there is an overwhelming, all-pervasive anti-landlord bias. Any landlord knows that. Any landlord experiences it

every time he appears at a tribunal. It's taken for granted. It's so taken for granted that the officers who decide these issues are completely unaware of it. They think they're being totally neutral because they carry on in a regime which has a ubiquitous anti-landlord bias.

The point I want to address is, how is that going to be any different under the proposed system? There's a tribunal set up and it has very large areas of discretion. My fear is that we'll be exactly where we left off. Let's say there is a tenant in default of rent who comes before the tribunal. Automatically, what happens in court now is that if the tenant shows up and asks for a delay, it's automatically granted. Any tenant with the least little bit of savvy can get two months' free rent before he's evicted. That's considered normal and proper. That's not considered a loss to the landlord. That's just considered normal and proper procedure, for a tenant to be able to get that kind of extension and stay where he is.

The simple point I want to make is that there should be very clear guidelines, without these broad areas of discretion. If the situation is simple, if the rent is in arrears or things of that nature, it should not be allowed to be dragged out. Right now, I see nothing in the legislation that prevents the same kind of anti-landlord bias from continuing. That's the simple point I want to make.

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Mrs Julia Munro (Durham-York): I want to thank you for being here today and giving us your opinion, particularly as an individual as opposed to —

The Chair: Mrs Munro, Mr Bisson has again corrected me. He's correct; it is the NDP's turn. I apologize.

Mr Bisson: The NDP is always correct. I couldn't resist.

Mr Gilchrist: Too bad the voters didn't agree.

Mr Bisson: Well, voters come and voters go to political parties, and you should know that as well as anybody else.

You make an interesting point, and it's something I've heard from both landlords and tenants: the fear of the tribunal, but for a little bit different reasons.

You make the comment — I don't want to put words in your mouth — that the courts, by nature, are much more friendly towards the tenants than they are towards the landlords. As a sitting MPP — this is my second term — I've seen both a whole bunch of tenants and a whole bunch of landlords make the same arguments. I've seen tenants come in and say: "The courts didn't give me a fair shake. The landlord had all the power." I've seen landlords come in and argue the same thing. It's somewhat subjective, depending on where you're at.

The point I want to make is that in the case of a rental unit, a rental unit is much more important for a person's livelihood than, let's say, a car or a stereo or a TV or a Nintendo game or whatever purchase you might make. The courts, yes, you're right, have given a certain amount of latitude to tenants in the event that they don't pay for whatever reason. It's not always because the person

decides not to pay; often it's because they can't afford to pay — something has happened, they've lost their job etc. The courts have given a certain amount of leeway in allowing, to a certain extent, the tenants to fall back.

Do you argue that if your rent is due on June 1 and you have not paid, this government should give the power to evict the person automatically after they're overdue? What kind of latitude would you give? It's an interesting point.

Mr Barnett: I agree that the relationship between landlord and tenant is different from a purely economic relationship. I agree with that, but the areas in which it is more than an economic relationship are in areas that have to do with privacy and things like that. A landlord cannot go into a tenant's apartment, things like that.

The economic aspect of the relationship, the payment of rent, is a basic economic relationship. In my view, I can't think of any justification. There is no other area that I am aware of in normal life where a person who is obliged to pay money is excused from paying it, is given some latitude because he happens to be a tenant or happens to be anything else. If rent is not paid, the normal consequence that follows should be that whatever you pay the rent for, you no longer have it.

You suggested that because it's a special type of relationship — and I agree that it is — a tenant should be given latitude, that even if he doesn't pay the rent he can stay there. To me, that reflects an anti-landlord bias.

Mr Bisson: Just to clarify for the record, I just want it on the record: I'm not advocating that people don't pay their rent. I want to make sure that everybody has a responsibility and must pay. The argument is, how much latitude? That's all I'm arguing.

Mr Barnett: What do you mean by that? When you refer to it as "latitude," do you mean he should be able to stay there without paying rent?

The Chair: That's it, thank you. Mrs Munro.

Mrs Munro: We hear the fact from both the landlords and the tenants that in most cases relations are very good. I just wondered if you could give us some kind of estimate from your experience of what you would consider to be the percentage of situations that result in any kind of protracted discussion.

Mr Barnett: In our buildings it's probably less than 1%, but the 1% is egregious. One tenant can make life absolutely miserable for every other tenant in that building.

Mrs Munro: Certainly the issue of polarization between landlord and tenant is something that previous speakers have commented on, and you've suggested the need for some kind of process which appears to be fair on both sides. There have been a number of suggestions: a tribunal that acts in a timely fashion and a tribunal that creates less cost for both sides. I'm wondering if you care to comment on those as possible ways to deal with this polarization that so many have spoken about.

Mr Barnett: The cost and the time factor are the two elements. What I call the anti-landlord bias — I think it's a misguided effort if they think they're doing the tenant

some good by letting him stay there longer. I think that's totally misguided. The persons who are really harmed by a bad tenant are the other tenants.

Every case is an individual case, but if there is broad discretion in a tribunal, the sympathy is always going to lie with the tenant. You don't want to kick somebody out on the street —

The Chair: I'm sorry. I cut you off in mid-sentence. We have to keep moving somehow. Mr Duncan.

Mr Duncan: Well, we have no questions, so I'll just ask you to finish your answer to that.

The Chair: The Liberals are going to allow you to finish your sentence, Mr Barnett.

Mr Barnett: We don't have a lot of history with how a tribunal can be set up so that it does function. It's just an experiment; whoever has ideas, they are just theoretical ideas. My own suggestion is based on my own experience, and our experience in this province is that the discretion should not be broad. There should not be broad discretion to extend the times for notices and things like that or to waive requirements. There's a legislative requirement that if a tenant doesn't pay the rent and has some excuse, he's got to pay the rent into court. That's never enforced. If there is the discretion in the tribunal to enforce it or not enforce it, it's going to show the anti-landlord bias.

The Chair: Thank you, Mr Barnett, for speaking to us this morning.

1230

STONEY CREEK LANDLORDS' ASSOCIATION

The Chair: The final delegation this morning is the Stoney Creek Landlords' Association, Albert Marrone. Good afternoon, sir.

Mr Albert Marrone: Good afternoon, Mr Chairman. Thank you very much for the opportunity to speak on behalf of the Stoney Creek Landlords' Association.

Bill 96 has had its second reading and I understand we're in the process of having some public input regarding the bill. While Bill 96 addresses some concerns between the landlord and the tenant, we believe that this bill falls short on some major issues for the landlord.

To provide affordable accommodation to the general public requires an initial substantial investment by the landlord in acquiring a building or a complex. Once the landlord rents the unit to a tenant, the tenant will move in and may literally destroy the premises, with very few consequences at present. The tenant may move out, leaving the premises in a deplorable state, as has been experienced in the Stoney Creek area on very many occasions, and of course they leave the added expenses to the landlord.

The landlord may take legal action, and many of them do and have done, but only to incur added legal expense while going through the process. Usually they find out that the tenant has very little, if anything, in return. They move from one dwelling to another, and on and on and on. They

simply move on to the next unit. They will destroy it and keep going. SCLA members have all at one time or another experienced this major problem and have had losses of anywhere from \$2,000 to \$11,000 in damages, in as little as one year to five months.

Bill 96 must provide the mechanism that when a tenant takes over the dwelling the tenant is responsible for the general inner maintenance of the building. The premises should be kept in the same livable condition as when they took possession of the premises.

Bill 96 does not allow the landlord to hold a damage deposit. I find this quite interesting because my daughters both go to university right now — one just finished graduating from Scotland — and at most Canadian universities you have to have a \$500 damage deposit if you are living in residence. In essence, the same rules should be applied to the people who want to be tenants in this province. The cost of supplying moneys up front is \$500 to \$700 for any Canadian university that I've researched.

Bill 96 must inculcate the responsibilities of not only the landlord but also the tenant. Both should have the same stake. We have investments, they need a place to live. It should be a two-way street. Right now, it seems to me it's in favour of the tenant.

Bill 96 should make the tenant receive a release tenancy form indicating the status of the tenant before they qualify for the next rental accommodation. In this way it puts the onus on the tenant to at least try to maintain the property to a livable level. This system, by the way, is used in many European countries such as Italy, France, Germany and Switzerland and is very, very successful.

In conclusion, we as an association find that unless we address the issues at hand there are going to be less and less rental units for people to live in. There is simply too much at stake here; something has to be done. It's a two-way street and I think it's about time that we put some of these hard rules that both parties have to abide by and that have to be law.

Mr Gilchrist: Thank you, Mr Marrone. I appreciate your comments. Let me ask you, in looking at the bill, whether you would agree with us that there is a need for balance throughout the bill. In section 24 we specify the landlord is responsible for providing and maintaining the complex in a good state of repair, fit for habitation. In section 28, responsibility of tenant, the act as it's currently drafted says the tenant is responsible for ordinary cleanliness of the rental unit. Would it be your submission that we should add a section there to the extent, "and be responsible for any damages which may be occasioned"?

Mr Marrone: Absolutely. I think it's a must. I'm really not against tenants. A lot of them are quite good, quite frankly. I think the majority are good tenants, but from what I've experienced in my association, and there are about 25 of us, you get some scenarios that really are a tremendous burden on the actual landlord. Some of the premises have been empty now for three or four months. The insurance will not cover any damages. It's a big bill, and who is going to pay? I have articles in the papers here.

It has led to shootings. Unless we have some very hard laws that deal with both sides of the street, you're going to resort to violence here. That's what I'm really scared about, that some of these tenants don't understand what's involved here.

Mr Gilchrist: I guess it's the old syndrome of the one bad apple, because as we've heard from landlords all across Ontario, there certainly is not a mindset, nor is there among the members of the government, that tenants are all bad. In fact, as one of the presenters just before you said, there are good landlords and bad landlords and there are good tenants and bad tenants.

Precisely the fact that you've identified that this bill certainly is not everything that landlords would want demonstrates that the government has tried to find a balance. Surely, if everyone from the tenant side came in here and raved or everyone from the landlord side came in here and raved, then you would not have a fair bill.

We don't expect both sides to love it 100% but we do believe this is a step forward towards fairness. We'll certainly take back your suggestion to add a far more definitive statement of the tenants' responsibilities, and hopefully for that 1% or one tenth of 1%, whatever it is, those stories can become more past anecdotes and less of a burden on landlords, and quite frankly less of a burden on tenants, because ultimately the landlord has to recover those costs somewhere, and that somewhere is generally in increased rents for all the tenants.

Thank you very much for taking the time to make your submission.

Mr Doyle: How are you today? You had mentioned that the universities have a damage deposit of \$500.

Mr Marrone: That's correct. At Western, McMaster and Brock University you have to put in a \$500 deposit. If you're in a residence, you have to put that money down, and if you leave the residence in a similar state to that in which you got it, you get the refund back, I think plus a bit of interest as well.

Mr Doyle: It had been mentioned by a previous landlord that he believes only about 1% of tenants are troublesome. That was his estimate, that 99% were good tenants. Would you concur with that?

Mr Marrone: I wouldn't go as far as putting a percentage point value on the tenants who are good or bad, but in my experience — I'll give you an example. I have a very nice two-bedroom home and I've been renting it since 1988. I've had five tenants, three of whom demolished the property. That's just my experience.

We keep fixing the stuff up, bringing new people in. They all look nice up front, they say they're good tenants, they're great, they work, this and that. But you get all kinds of things happening. Before you know it, you've got pets in there that literally destroy all the carpets; they urinate all over the place, they smell up the home, we have to do all kinds of things to it. It's disgusting. I don't know how people can live in those kinds of environments, quite frankly. I just don't understand it. I'm not talking about the investment itself; even the health of the people who

live in those conditions. I find it quite extraordinary that they can live in that type of environment.

If you were to look at my place now that I've had empty, and all my other friends who have had vacant buildings — I welcome anybody to come and have a look, to see exactly what I've done to that home to make it livable. I'm talking about a very beautiful little home. I'll tell you right now, I've had it empty. I'm screening the people, but there's no guarantee. These people could come in and literally destroy that place, which they've done before, with all kinds of holes in walls. It's a total disaster. So if you tell me about 1%, I don't know what the percentages are, but in my experience, I'd say about a good 20% to 30% of the tenants I've had, I haven't had very good luck. By the way, we've screened tenants out. So the mechanism has to be there.

I feel sorry for the people who can't afford to buy good homes. I try as a Christian to accommodate people who are a bit needy too. But to be taken like that over and over again — not only me, but I'm here representing an association, as I said, of 25 to 30 people in Stoney Creek. They all have horrible stories to tell. Some have gone to the paper; some have not gone to the paper. I haven't gone to the paper. But when I saw that in the paper, I said, "Who's this Mr M?" I thought they were talking about me. It wasn't me at all, it was somebody else, and then we formed an association. But something has to be done.

1240

Mr Duncan: Thank you, Mr Marrone. You've put a case that has been well put by yourself and a number of others.

I want to take a moment to explore your views on another aspect, the whole question of supply of affordable rental housing, and perhaps ask, given your background in municipal government — one of the big issues that has been raised by landlords throughout these hearings, and indeed it has been well discussed prior, is the differential taxation between apartment units and single-family residential. Is it your view that municipalities such as Stoney Creek or others will be in a position to lower property taxes for landlords, given everything that has gone on, in the coming couple of years?

Mr Marrone: That is an issue. Mr Agostino knows me very well. I was a councillor in Stoney Creek for nine years. I did not get re-elected this term and I've been working on my own. I'm a teacher so I've got my own profession. However, to answer your question regarding taxation, yes, I tend to agree with you about trying to make the taxation levels lower, because we are taxed to a considerable degree, and to provide affordable housing the taxes have to be looked at as well. Certainly the remuneration on getting the moneys back on the investment that I've got there, forget it. We're just paying the taxes and trying to maintain the premises.

Mr Duncan: The government has suggested that individual municipalities could become an issue in the coming election dealing with the differential. Do you think that's realistic in light of all of the changes that are going

on with respect to downloading, as some would call it, disentanglement, as it used to be known? Do you think it's realistic?

Mr Marrone: The disentanglement I think is a process that has to be looked at in terms of who gets what. Certainly the downloading of the taxation is a different issue. Whether it affects the affordability of homes and the tenant versus the landlord is hard to say. However, I've got to admit that some of the things this government has done are very positive and some of them are very disturbing, quite frankly. I find some of the things disturbing, but I think they're trying to do some things that are positive.

In terms of us, as an association, I've still to see a nice, clear balance between the tenant and the landlord. That has got to be looked at. In terms of the taxation, it's hard to say who are the winners here and who are the losers in this whole gamut of restructuring. But I would hope, putting all politics aside, and I have been a past politician, we are all winners. That's what I think it's about. People in general have to be in a win-win situation, not that we sacrifice somebody for somebody else's gains. I don't tend to agree with that at all.

Mr Bisson: I've got two questions. You seem to be suggesting through your presentation that tenants be responsible for not only the good repair of the unit but the overall unit. Are you suggesting if I take a unit from you and the tap breaks or the carpet needs changing because of wear and tear that I should pay for that?

Mr Marrone: If I was to rent my brand-new suite to you and you're living a normal life — I've lived in my own home — I built my home in 1968, I'm still there. I had to change the taps on my sink, sure. But you don't change the taps once every two months when somebody gets a hammer and smashes the thing up. If there's a leak in a tap, yes, I think the tenant should be able to maintain those premises in a livable condition.

Mr Bisson: So that's your argument. You're arguing that the government should say by way of this legislation that tenants not only pay rent but must pay for the ongoing maintenance of the apartment?

Mr Marrone: The general small upkeep of the apartment, the small inner workings. If a lightbulb breaks, that's his responsibility. If a switch falls or becomes inoperable in a home, they have to fix that switch.

Mr Bisson: I disagree with the premise but I understand what you're saying.

The second one is that you talked about the landlord needing a way to recoup damages done to the unit, and I sympathize with that to a certain extent. But if you read on in the legislation, there is already an indication that you're going to have this right, and I hate to be the one to tell you this. Section 40 gives the power to the landlord under certain circumstances to seize the assets within the unit — in other words, all the furniture, the colour TV, the Nintendo game, the mink coat, whatever the heck it might be — and there are no limits placed on how much a landlord can take. In other words, I rent your unit, there's

\$1,000 damage, there's \$10,000 worth of furniture in there, you can keep it all. Do you think that's fair?

Mr Marrone: First of all, I don't know what section you're reading there.

Mr Bisson: Section 40.

Mr Gilchrist: On a point of order, Mr Chair: Mr Bisson, I wouldn't want you to mislead the gentleman. That has to do with abandonment of property. It has nothing to do with damages.

Mr Marrone: Exactly. I was coming to that because I've read the bill and I understand where the bill is coming from. Let me tell you this. We've had cases where they've not only demolished the home but they've moved in the middle of the night with a truck. They literally took everything out of the house and moved out of the home and left damage up to \$5,000, \$6,000 and no way to recoup that money anywhere. What do you do in that case? How does this bill address that?

Mr Bisson: But what you're arguing is that you be given some sort of mechanism either to take a security deposit at the beginning or to have some mechanism by which to be able to grab the assets within the unit in order to offset your damages.

Mr Marrone: That's right. But what's wrong with that? On a mutual agreement you've got two people who are going to be partners, the tenant and the landlord. What's wrong with having a damage deposit put in a bank account collecting interest at the same rate and leaving the money there?

Mr Bisson: My question is, how much?

Interruption.

Mr Marrone: Well, \$500, \$700, whatever the cost.

The Chair: Excuse me. The gentleman in the front row, I've asked you to stop disrupting the meeting and I ask you again. Please do not disrupt the meeting. It's not fair to the speaker, it's not fair to the committee members and, more important, it's not fair to the people who are here to listen.

Interruption.

The Chair: I'm sorry? I'm going to warn you this time. I don't want to have to call hotel security but I will.

Please continue.

Mr Marrone: As I was saying, it takes two partners. The amount should be negotiated. The law should permit a set amount. It shouldn't be something that is extravagant but it should be something that ties the people in. How come students have to put that deposit down? Because they know if they're going to have a party in a residence and demolish that particular residence, they're going to lose their \$500. That makes them think twice about throwing a wild party and making holes in the walls.

Mr Bisson: A fair amount to you is \$500 or \$700?

Mr Marrone: I think \$500 to \$700 for a single unit is a substantial amount that the person could lay away. As I say, if you have an account, whatever interest it gathers, it's their money. But at least I have access to that if there are holes in the wall.

Mr Bisson: That was my follow-up, who gets the interest on the money, which you've answered.

The Chair: Thank you, sir.

Mr Marrone: Am I off the hook?

The Chair: You're finally off the hook.

Mr Marrone: It's that easy?

The Chair: You've had a tough session. Thank you very much for coming and making a presentation.

Mr Marrone: I will leave this particular piece of information with the committee, if you so desire.

The Chair: If you could leave that with the clerk, the clerk will copy it and present it to members of the committee. Thanks very much for coming.

That concludes the presentations this morning. The committee will reconvene at 2:30 this afternoon.

The committee recessed from 1247 to 1431.

The Chair: I call the meeting to order again. There's been a request, members of the committee, that the next two groups on the agenda, McQuesten Legal and Community Services and the Social Planning and Research Council of Hamilton-Wentworth, meet as one group and that essentially instead of 20 minutes for each group, they meet for a total of 40 minutes. Unless anyone objects, I have consented to that. Seeing none, representatives from those groups can appear.

McQUESTEN LEGAL AND
COMMUNITY SERVICES

DUNDURN COMMUNITY
LEGAL SERVICES

SOCIAL PLANNING AND RESEARCH
COUNCIL OF HAMILTON-WENTWORTH

The Chair: I have four names: C. Michael Ollier, Don Jaffray, Andrea Horvath and Judith MacNeil. Good afternoon. Just so we know the rules, because it is a little unusual what you're doing, it's the Chair's position that you have 40 minutes. You can speak for 40 minutes or you can speak and allow time for members of the committee to ask questions, if indeed they have any. The floor is yours. Each person who speaks, if you could identify yourself.

I see you have things here. I see what you're going to do with them, but the rules of the House, which apply to the committee, indicate that there should be no props, no demonstrations. Try and keep that in mind when you're making your presentation.

Ms Andrea Horvath: Thank you, Mr Chairman. In fact, we appreciate the committee's flexibility in terms of letting us discuss our positions together. They're just here. We're not going to do anything with them. They're just sitting here with us.

The Chair: As long as you don't throw them; it might hurt. I'll try to be fairly liberal, with a small l.

Ms Horvath: Good afternoon. My name's Andrea Horvath and I'm a community development coordinator with McQuesten Legal and Community Services. I have

with me, as you've mentioned, Michael Ollier, the executive director of McQuesten; Judy MacNeil, the executive director of Dundurn Community Legal Services; and Don Jaffray, the executive director of the Social Planning and Research Council of Hamilton-Wentworth. We'll be sharing the time allotted, as you've already mentioned, and we thank you for that.

We'd like to begin by saying that we really appreciate the opportunity to speak to you today. We also appreciate the opportunity that so many of our local MPPs have come to hear the hearings. We think that's very positive and we're very glad that you're here.

I also chair a group in our community called the Social Housing and Access Committee. The acronym for that is SHAC. SHAC is an unfunded, voluntary organization made up of tenants' organizations, tenants and various groups concerned with the availability of and access to safe, decent, affordable housing in our community.

Many organizations and groups in our community are suffering from serious dwindling of resources and a lack of access to information. Last year during the process of the discussion paper phase of what's now become Bill 96, the New Directions document, it became clear to SHAC that the realities of lack of resources had some effect on our community's ability to respond to that particular initiative of the time, which was the New Directions document. In order to address that situation, SHAC has been working with over two dozen organizations in our community to assist them to have a voice in the hearings today.

So this afternoon you'll hear from numerous individuals and groups and you'll notice that for the most part the community of Hamilton-Wentworth is united in our position on the bill. Even the city of Hamilton and the regional municipality have serious concerns about the effects that this bill will have. Our united opposition to the bill has meant that we have worked together to ensure that you have an opportunity to hear from a rich and diverse cross-section of our community.

Frankly, we are concerned that the Tenant Protection Act is based on a little bit of a faulty analysis about the housing market, an analysis which does not take into consideration all of the complex variables that affect the supply of rental housing, and in particular rental housing which meets the needs of our community.

The assumption that the removal of rent controls will stimulate rental housing construction is false. Time and again over the process of these public hearings it's been shown that this is a faulty analysis. History has shown us that the market does not and will not respond to social need. This has, unfortunately, in our opinion, been ignored, as well as other real economic barriers to construction, including things like financing costs, property taxes, land values and development and construction costs. We fear that even if these costs are addressed, the only housing that would be built would be at the high end. We fear that this point is not being given enough consideration. What we fear as well is that this will do nothing to address the

real housing crisis which currently exists, particularly for low-income people. In fact what we fear is that it will make things worse as the most low-rent, in some cases derelict, buildings are demolished or converted to condos or other uses.

The repeal of the Rental Housing Protection Act will create havoc in our communities. Our local government will be unable to successfully plan for the ongoing needs of our community, as this bill effectively removes them from any involvement in the decision-making process. The supply of affordable housing will be reduced, and exacerbating this situation is the decision made early on in your mandate particularly to end the construction of non-profit and cooperative housing and the more recent decision to sell off the public housing units.

Bill 96 in our terms is an attack on tenants and their homes. With this bill we fear that you're dismantling brick by brick the essential building blocks which have provided tenants with protection over the years — hence our building blocks.

As people come before the committee today, or this afternoon particularly, you'll hear about the detrimental effect of the removal of rental controls and the repeal of the RHPA. You'll hear about the loss of choice, the loss of protection from discrimination and the loss of security of tenure. You will hear about reduced access to justice, reduced ability of tenants to have maintenance and repairs addressed and the loss of privacy protections. You will hear how this bill systematically destroys the basic building blocks that society really needs to ensure we maintain an adequate supply of decent, affordable, appropriate housing that meets the needs of our community.

Although you're probably not enthralled with the way I've set the tone of this afternoon, I really ask you to carefully listen to the concerns we have. We ask you to remember that there are millions of tenants in Ontario. You need to keep in mind the needs of these people and not only the drive for construction, which we think is not going to happen, and the drive for profits. You must remember that housing is not a luxury in Ontario. It's a necessity, a basic requirement for life. We ask that you please keep this in mind while you hear our community this afternoon. Thank you.

Next I'd call on Mike Ollier, the executive director of McQuesten legal clinic.

Mr Michael Ollier: I'm the executive director at McQuesten and I work with Andrea. Andrea's our community development coordinator and as a result of that, working as she does in the community, she's associated with a number of groups. I would just say that would be one reason why you would perhaps see her in a number of different capacities, a number of different connections with our community.

Part of our mandate as a clinic is to promote the legal welfare of our community. That's why we're here today and why I'm speaking to you as I am today on a subject that's very dear to my heart. I've worked with McQuesten

since 1991 now and since that time my eyes have been opened to issues I never would have seen otherwise.

I used to have a very simplistic image of tenants. They seemed to resemble me in a lot of ways, from the type of building that they would live in, to the way they would behave if they had a problem with their landlord. But since then I've grown to appreciate that there are many different types of premises and that the word "tenant" includes a very broad range of people. This is particularly true for roomers and boarders, and that's an issue that's very close to my heart. A room is usually cheaper than a self-contained dwelling and the people who live in them for the most part are quite poor. In Hamilton, where we have a regional psychiatric facility, many people who live in our rooming-houses face mental health challenges as well.

I'm proud to say that the city of Hamilton and the region around it has demonstrated concern about the people living in rooming-houses. A task force which was completed in 1994 has set about improving standards and encouraging the availability of social service resources as well. A key part of that strategy is making sure that landlords are aware of their responsibility under the law. That has been the Landlord and Tenant Act up until this point.

1440

Section 1(a) of the present act, the Landlord and Tenant Act, includes rooming, boarding and lodging house in the definition of residential premises, and then section 1(e) of the current Landlord and Tenant Act exempts premises whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent or the spouse's child or parent, where the owner, spouse, child or parent lives in the building in which the premises are located. That's the law as it stands at the present time.

Section 1 of the Tenant Protection Act would also include rooming, boarding and lodging houses in the definition of a rental unit. Section 3, clause (i), however, may provide a larger exemption than what was intended, I feel. It reads, "Living accommodation whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent or the spouse's child or parent, and where the owner, spouse, child or parent lives in the building in which the living accommodation is located." It's a small word, but it's a significant one; the word is "and." I suspect that the intent in both acts was the same, and that was to —

Mr Bisson: What section are you referring to?

Mr Ollier: Section 3, clause (i). I suspect the intent in both the Landlord and Tenant Act and the act you're currently considering is the same, and that's simply to exempt from the act premises where a kitchen or a bathroom is shared with the owner. One can see that there's a rationale for that, because you'd really want to rapidly end a situation that was unpleasant when people are obviously in very close quarters. At present, the Landlord and Tenant Act does this. We all recognize that it does this; the judges

know that it does this. But adding the word “and” just before stating that the landlord and related persons must also live in the building may have an unfortunate consequence that I’m personally very concerned about, because it might be argued that the “and” provides a second exemption for landlords who simply reside somewhere in the building. That would enlarge the category of exempt landlords from the people who let a room in their house, for example, to anyone who operates a rooming-house on a larger scale who could perhaps arrange to have a family member maintain a residence there.

I’m sure that’s not what was intended, but even so, a lawyer for a landlord would be able to challenge the old purpose behind the Landlord and Tenant Act by saying, “Well, why was the ‘and’ put in? If the Legislature did not want to make the change, they would have left that alone.”

As I was saying earlier, since coming to the clinics I’ve had my eyes opened to many types of tenancies and I know that rooming-house tenancies are often overlooked. Part of my job is to try and make sure that these types of tenancies are not overlooked and I urge you to change this section back to the way it once was. Tenant protection is particularly important for this group of very vulnerable people, but I suspect furthermore that rooming-houses may be in the future for many more tenants if the rents rise or even remain stable when and if this bill is passed. Incomes from part-time employment and social assistance are now very low and rooms may be all some people can afford soon, maybe many people, and it will be even more important then that the legal obligations of rooming-house tenants and their landlords be very clear. It’s perhaps a small issue, but it’s of vital importance to the people I work with. I thank you very much for your attention on that.

Now I’d like to introduce you to Ms Judith MacNeil, to my left. She’s a director at Dundurn Community Legal Services, also in Hamilton here, and she’s had a great deal of experience with the landlord and tenant court and the appeal process. Her familiarity with the legal problems and the procedure makes her particularly well suited, I think, to offer comments on the proposed Ontario Rental Housing Tribunal.

Ms Judith MacNeil: Thank you, Mike. I’m making this submission on behalf of the three legal clinic of Hamilton — Dundurn Community Legal Services, Hamilton Mountain legal services and McQuesten legal services. We’ve been involved in landlord and tenant matters for some 18 years, since the inception of McQuesten, and we’ve represented tenants in court applications ongoingly since that point.

We accept the inevitability of a transfer from the court’s jurisdiction to that of a tribunal. Some of us may regret it, but we realize the cost implications for court adjudication are soaring and we acknowledge that this is inevitable.

Our submissions today are limited to comments on the prospective Ontario Rental Housing Tribunal as suggested in Bill 96. We have some concerns about the loss of rights

for tenants that are now secured in the Landlord and Tenant Act and we ask the committee to amend the sections that we have highlighted with the intent of securing those rights that are presently in place.

One of the things we anticipate is that the tribunal will be able to reconsider its own decisions, and we welcome that change. Reconsiderations are often a very expeditious and less costly way of dealing with what ordinarily would be an appeal. We hope that the tribunal would fairly liberally grant reconsiderations, rather than now in the fashion of the rent control programs where reconsiderations are very sparingly granted.

We note that the jurisdiction of the tribunal has been limited to \$10,000 for applications. Certainly this is in ordinary circumstances a reasonable limitation. However, where there are joint applications, and this is supported in the present bill, the \$10,000 limit may be off-putting to joint applicants and we ask that there be clearer definition that the \$10,000 can be apportioned to individual applicants, rather than one application being shared by several applicants.

There is indication in the bill that the tribunal will have jurisdiction to make interim orders, but there’s no explicit power to put a wrongly evicted tenant back in possession of the premises, notwithstanding the exclusive right of the tribunal to terminate tenancies. Presently tenants, under part IV of the Landlord and Tenant Act, can apply to the court for authorization from the court, a writ of possession, placing them back in possession. This is an occurrence that we see frequently in the clinics and we ask that there be some allowance for that amendment. While there is monetary compensation to tenants wrongfully evicted, that is not sufficient to tenants where they cannot find or have difficulty finding affordable accommodations.

We understand that the proceedings in the tribunal will be done in an expeditious manner. Presently, proceedings in court are considered summary proceedings and the court has determined that these are proceedings where all the procedural requirements of a trial are not necessary. However, in our jurisdiction the judiciary has been very considerate and very careful to allow all parties to make full answer in defence to all applications. We would hope that the tribunal will also allow sufficient time for the hearing of these applications. This would include the opportunity to request adjournments and to expect to be granted those adjournments when the need arises.

Presently in the Rent Control Act there is provision for service, and we’re glad to see that the posting provision is no longer a part of the landlord and tenant matters, since this was always a problem for us. However, we’re very concerned about actual notice. The section says that if in fact a tenant is determined to have received actual notice in a reasonable time prior to a hearing, then service of the notice will be dispensed with.

1450

This certainly is a real problem. Many questions come to the fore: What is reasonable notice? Under whose determination is it reasonable? Will this be a subjective or

an objective determination? Will reasonable notice be sufficient time to retain counsel? Will reasonable notice be sufficient time to file a dispute?

We're very concerned about this actual notice provision. While it was in previous rent control legislation, there we were not dealing with matters concerning security of tenure, and since we are here, this is of great concern.

We're also concerned about the section that deals with payment into court. Presently, under part IV of the Landlord and Tenant Act, there is stipulation that rent arrears must be paid into court before a tenant can dispute the application on the basis of the landlord's failure to observe a covenant. This is a sometimes onerous provision in the present Landlord and Tenant Act but it's a reasonable one in the sense that the landlord is naturally concerned that rent will not be paid in the event that a claim by a tenant will fail.

Having the broad provision in the present bill where it's not limited to rent arrears, a breach of covenant obligation situation may mean that tenants cannot exercise their basic rights, since we've seen that payment into court is very difficult for some tenants. We're asking therefore that it be restricted to the rent arrears, breach of obligation parameters.

We also note that costs can be ordered by the tribunal. Recently the court fees have been increased significantly and we're very concerned about this for the poor, whom we represent. Sometimes the amount of a fee can deny access to justice for certain tenants. We would ask, in the rules and regulations to be made for the tribunal, that the parameters of fees be limited. Especially where the section indicates that the tribunal could order that its own costs be covered, we would ask that that be limited to situations where an application is frivolous or vexatious only.

We also note that the tribunal has the opportunity now to mediate a settlement. Certainly, while we support mediation in principle, we have some concerns. Will the members of the tribunal have the ability to mediate? Will training and expertise in mediation be part of the criteria for choice of tribunal members? Will parties to a mediation have an opportunity to retain counsel, especially where, as the bill provides, they can contract or settle outside of the act?

We're concerned, while mediation is something we use all the time, that it not be used in too general a fashion so that the ongoing development of housing law is not thwarted and basically has no negative impact on tenants in general, as opposed to tenants specifically.

I think I'll wrap up now, although I had a few other things. Back in November 1996 there was an article in the Hamilton Spectator about the percentages of tenants who were spending more than 50% of their income on housing. A Co-operative Housing Federation of Canada study determined that 15% of tenant households were spending more than 50% and 4% were spending as much as 90%.

These are the tenants we represent. We're concerned about their rights. We're coming into a time when they

need more rights rather than fewer. We would ask you to make amendments that are consonant with those concerns.

I'd like to introduce Don Jaffray from the Social Planning and Research Council.

Mr Don Jaffray: Mr Chairman, members of the committee, my name is Don Jaffray and I'm the executive director of the Social Planning and Research Council. I'm here to offer a few comments to you today on behalf of that organization, but I think it's also important to recognize that we're doing that because we have a long-term working relationship with the Social Housing and Access Committee and its members. We have supported their work, we have learned from their work and we have been supported by them. I think that's an important part of the process we're going through to review this piece of proposed legislation.

In addition to that, I'd like to thank you for the opportunity to come here and provide some feedback to you along with other members of the community. I think it's an important part of the policy-making process that members of our organization feel is important and continue to support.

The Social Planning and Research Council is an organization that's committed to the principle that the most effective responses to community problems arise from the development of an informal consensus among the various sectors that make up the community about the nature of problems and the most appropriate responses. It's our mission to act as an independent voice in the community to improve the quality of life for all citizens. The SPRC is making this presentation as a SHAC member to facilitate presenting a variety of views. SPRC itself believes that all citizens have a right to adequate, affordable and safe housing. If you don't accept, as we do, that fundamental principle, then a lot of what we would encourage and recommend later in this submission won't make a lot of sense, so let me just review that.

We believe that all citizens have the right to adequate, affordable and safe housing. Good housing is the foundation on which individuals and families can build a healthy and productive life. As a society, it's our responsibility to ensure that all citizens have access to this most basic of life necessities. The SPRC is concerned that changes to the housing legislation proposed in Bill 96 will impact negatively on a minority in Hamilton, that minority being people living in poverty, and that this legislation will create even more homelessness than we have experienced in the past few years.

About that homelessness, we have from a study entitled Homelessness and Mental Illness in Hamilton-Wentworth done in 1995 in this region an estimate that suggests there are approximately 160 homeless people in the city, 36% of whom have some kind of mental or emotional illness. These people have the most serious problems accessing services, including housing. But that estimate is probably a conservative and very small estimate of the homeless population, based largely on a narrow definition of who is

actually homeless. Those people would be living in the most extreme conditions of homelessness.

The population is actually larger than that. There are many other people who are not as seriously desperate or critically homeless yet but still face difficult housing pressures. These people rely on social benefits such as general welfare assistance, family benefits and other publicly funded pensions or income support programs. They're living on fixed incomes that are some of the lowest levels of income that individuals and families can live on in this province. In this region alone there are about 22,000 people — not cases but people — who are counting on welfare and another 43,000 people who rely on family benefits. When I talk about people, I'm talking about head of household plus a spouse, if there is one, and any other dependants, which would include children.

You can see that this represents about 65,000 in this region in total who come from these two income support groups alone. If you add to this seniors living on government pensions, you can see that our concerns relate to a sizeable population. It's still a minority in our community but it's a sizeable population. Many of them are renting their homes in this region. Their income rates are fixed by government policy; they're not determined by market forces as would be the case with wages, salaries or income from investments.

Benefit rates or incomes are instead a reflection of a political will of a government or a set of values about social programs held by people in the community. Benefit rates don't rise and fall with the shifting of forces of supply and demand in the marketplace. In fact, shelter allowances bear no relationship to market rents.

That comes from a fairly extensive study by a past provincial government on the conditions of people who are living on social assistance. It's dated 1988, but that statement still applies today. Incomes derived from provincial government sources have been in decline for several years now in terms of their purchasing power. The most dramatic recent decline, as I'm sure you'll recall, took place in October 1995, when benefit rates for GWA and FBA were reduced by 21.6%.

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Our concern is that housing legislation such as Bill 96 is developed largely on the assumption that housing costs and regulations are designed to regulate housing as a market commodity. Pricing of rents should be left to the marketplace negotiations between landlords as suppliers and tenants as consumers in that market model. For many renters that relationship works. For our most vulnerable populations, that relationship doesn't work.

Our concern is for those people on very low fixed incomes. Only those who have the opportunity to live in publicly supported housing, such as that provided through non-profit and co-op housing projects, will find their housing affordable. Others renting in the private market will have a very different experience. The protections people on low fixed incomes require will be different than the protections designed for and available to consumers

and renters who have sufficient income to negotiate a fair deal and so participate fully in a marketplace economy.

Approximately 70% of those living on GWA and FBA still purchase their housing in the private market. Even so, they are still a minority in the renting population in this region and are not able to drive the pricing practice of landlords with available rental housing. Judy mentioned only a few moments ago some figures which suggest the number of people in the private market who are still paying a disproportionately large percentage of their income for their housing costs, something like 19% of the population. You will find a great many people living on fixed incomes and social benefit programs in that 19% of the population renting in the marketplace.

With this in mind we ask, what evidence is there to indicate this legislation will not create undue hardship for low-income families who must find accommodation in a housing market which is increasingly less able to provide housing for low-income families operating outside of the market economy?

Related to our concern for affordable housing is the matter of the protection of existing available and affordable rental housing. Hamilton had a vacancy rate of 2% in 1995. This rate was predicted to drop to 1.8% in 1996 and drop again to 1.6% this year. In some areas of the city, for example, the Westdale neighbourhood, which has a large student population attending McMaster University, the rate would be significantly lower than that. As vacancy rates continue to decline and the rental market tightens, the supply of tenants needing accommodation will force the cost of rental housing to rise if rent control is abandoned and the supply of affordable accommodation shrinks.

The Rental Housing Protection Act was intended to preserve the rental housing stock, especially in light of needs of a specific municipality. Municipalities could determine whether rental units could be converted to other uses since their approval was needed before the conversion could take place.

We have a concern that the elimination of the RHPA will result in the eviction of tenants where the conversion is not related to a condominium situation. Bill 96 provides little hope for improvement to tenants in boarding homes, rooming-houses or the like. With the removal of rent control on all units, buildings presently used for these types of residences may be the most susceptible to conversions to apartments or even to demolitions.

Prior to the Residents' Rights Act, there was nothing to prevent home care operators from changing from a care home, making significant renovations that would force tenants to move to another care home. The result was tenant evictions, and these tenants often had to move to other care homes away from their families. These problems may now recur and therefore this proposed legislation will be regressive for them in that regard.

Protections afforded tenants of care home facilities in section 92 are minimal at best. If the landlord does not find alternative accommodations, and since all that must

be done is to make reasonable efforts, there is nothing really to prevent the renovation or conversion. At this point we do not know what interpretation the term "reasonable" will be given or from whose standpoint it will be considered.

Tenants also have the right of first refusal, but there is no assurance that the rent will be affordable, that the accommodation will be accessible or that the landlord will provide services. In light of the fact that tenants of care homes are the most vulnerable tenants, we are concerned about the intention to remove protections for care home rental stock. These tenants are often classified as hard to house, and without some protection for the availability of units for them, their housing requirements will be even more difficult to resolve in the future. Again, Andrea made some remarks at the very outset which suggested that the private market is not breaking down the doors to build and create new housing for this population in particular.

The repeal of the RHPA also has important consequences for local planning processes, and to some extent that represents the loss of local control. The already limited supply of affordable housing will negatively impact on the city's ability to engage in effective community planning. For example, local government efforts to revitalize the downtown core in this city may be further hampered by decisions of individual landowners which may be inconsistent with larger neighbourhood plans and the housing needs of the community in particular. I think that especially applies to low income families.

Under the Rental Housing Protection Act, the city of Hamilton has been able to evaluate the impact of converting rental units to other uses and mitigate some potential danger to tenants. The depletion of affordable rental housing stock has varied and sometimes subtle impacts on this city. Hamilton needs affordable housing for all of its citizens, including seniors, people with disabilities, people without work and people who work very hard but sometimes for very low wages. We do not believe that the repeal of the RHPA is appropriate for all those having to manage in today's marketplace.

Dispensing with the RHPA, completely aside from sections relating to condominium conversions in tandem with the proposed vacancy decontrol, may well lead to increased concentrations of the least expensive, poorly maintained rental housing. Areas with concentrations of that type of housing will become increasingly different and separate from other neighbourhoods which have higher-cost housing and presumably higher-quality housing. That trend over the long term will do nothing other than to segregate communities and the people in our region, rather than integrate communities.

In May 1996, a report on emergency food and shelter needs in this region indicate that the number of people who are unable to meet their basic shelter needs without agency assistance is increasing. That's the experience of service providers. We believe that local control over affordable housing stock is a primary need for all municipalities to forecast and influence their growth. We are

reminded that in making changes to the Planning Act, the current government of Ontario emphasized the need for more local control and made changes to that act based on that philosophy.

We urge you to make amendments to this bill that are also consistent with that philosophy. We accept that existing housing legislation will change and can change for the better, particularly with this proposed act to consolidate and revise the law with respect to residential tenancies. But we urge this government to amend the bill in light of the suggestions made by this community and others so that the final act will be a fair and more considerate piece of legislation, with real tenant protections for all members of the community.

Thank you for your consideration of these comments.

The Chair: Thank you Ms Horvath, Mr Ollier, Ms MacNeil and Mr Jaffray for your presentations. Unfortunately there's no time for questions, but we appreciate your coming.

1510

ADOLESCENT COMMUNITY CARE PROGRAM

WESLEY URBAN MINISTRIES HAMILTON URBAN CORE COMMUNITY HEALTH CENTRE

The Chair: The next presentation is the Hamilton Urban Core Community Health Centre. There are four people making presentations or at least at the table: Andrea Newman, Elizabeth Szkodziak, Denise Scott and Paul Johnston. I trust your spokesperson will identify who is speaking. Good afternoon.

Ms Andrea Newman: My name is Andrea Newman. Hello, everyone. Thank you for the opportunity for us to speak today. We recognize that there are a lot of people who wanted to speak to the proposed changes to the Tenant Protection Act, and because there is a limited opportunity, we agreed to share our time.

Presenting today will be Elizabeth Szkodziak from the Adolescent Community Care Program. She will be doing the first presentation, and after Elizabeth will be Paul Johnston from Wesley Urban Ministries. He will be relating the legislation how it will affect the youth that he works with in the transitional youth program. After those two presentations, Allan Boudreau and I will be discussing our concerns about the legislation.

Ms Elizabeth Szkodziak: I'm Elizabeth. I work for the Adolescent Community Care Program. For the last 16 years, our main mandate has been to help youth between the ages of 16 and 21 secure housing. This has actually meant going out with the kids looking for apartments, so we have a pretty good idea of what's out there. I'm just going to take a couple of minutes and what I'd like to do is give you a thumbnail sketch of the typical client that we may see and what they need to go through.

She is 17 and a straight-A student. To her now-estranged family she has done the unspeakable, she has betrayed a family secret. Her bruises and hurt are hidden, her fears and frustrations are not. She has pleaded with her part-time employer for more hours. He could not accommodate her. She has searched for another job unsuccessfully. She is not looking for a free ride. She has dreams and goals: to finish high school and then perhaps go to college or university. She has been humiliated in telling her story to many so she may prove herself worthy of receiving social assistance.

With her allotted \$320 for shelter she has been looking for a place to call home. Her expectations are modest: something clean and something safe. Her options are limited: a room and board or a bachelor apartment. What she has seen has been either in a basement or in an attic, and generally in the downtown core, taking her away from the school where she has been so successful, from her friends, from her supports and from a familiar neighbourhood.

Apartments that you or I would consider safe and clean for \$320 are few and far between. When she does secure an apartment, it will probably exceed her shelter allotment and eat into her remaining meagre living expenses. For her, even those limited options are narrowing as landlords ask her: "How old are you? What is your source of income?" They tell her: "You are not old enough to rent this apartment. This building is for those over 21. You cannot afford to live here. You will be a partier. You will do damage. You will disturb other tenants. I rented to teens before, they are all the same." This is said despite references, good rental histories, and often regardless of a credit rating or guaranteed direct payments. She will find a landlord who will rent her an apartment, but she may have to lower her expectations.

She is not a mere example created to make a point here. She has a name and is as real as you and I. She is one of many vulnerable youths. When they go to find these places to call home, will these be clean, will these be safe, will these be in good repair? Will they be harassed? We all know what teenagers are like. Will they be evicted because they are perceived as troublemakers?

Please do not put up roadblocks for those who are already struggling. Please protect them.

Mr Paul Johnston: My name is Paul Johnston, and I'd like to add my voice of thanks for the opportunity to participate in the hearing this afternoon. I'm the director of resource development with Wesley Urban Ministries here in Hamilton. An outreach ministry of the United Church of Canada, Wesley Urban Ministries has been providing services to those marginalized by poverty, language and culture for 43 years. Our programs range from a drop-in centre and emergency shelter to a no-charge summer day camp and parent-child resource centre. Our work with new Canadians includes multicultural advocacy services and English language instruction.

I think Bill 96 affects many, if not all, of the clients who visit Wesley Urban Ministries, but today I'd like to focus a bit on the impact we feel this bill will have on the young people that we serve through our street youth outreach program.

Let me begin with the story of John, not his real name. He is 19 years old and finally received his general welfare assistance cheque after living in hostels for three months. Currently attending vocational school, John was lucky enough to find a place to live, but he finds he cannot afford rent, school supplies, clothes, laundry and all the other expenses, so he turns to Wesley for some support: breakfast at our drop-in centre and, after school, a visit to the street youth program. There he has a bite to eat, does some homework and gets numerous pats on the back and support from the staff members there. He keeps this routine day in and day out, and I think his future is bright. I tell this as a success story, and why I chose to tell it today was because, right at this moment, under the present legislation, this is an exception to the rule. As we discuss this bill today, I can't help but wonder how much more difficult it will be for this story to repeat itself under the proposed Tenant Protection Act.

The stories that we have about the young people we see at Wesley like John are stories of some of the most vulnerable in our communities. Each day we see 10 to 15 young people accessing our program. Though the paths they travel to get there may be different, abuse is an all too common thread that joins them together; over 80% is our estimate, as far as those who have experienced physical, sexual or emotional abuse. They must now deal with the prospects of starting their life on their own and learn to trust again.

Discussions with these young people, which relates to our brief here today, reveal that they face discrimination on many fronts: discrimination based on their age, discrimination based on the way they look, even discrimination based on the stereotypes of street kids. Under Bill 96, discrimination based on income is one more to add to the list.

Discrimination means less choice in housing, very clearly, and the inability to find appropriate housing has led to some dangerous consequences in this community. It means squatting in abandoned buildings or living on the street. It means accessing adult services such as hostels and drop-in centres that are designed to deal with their specific needs. It means that sometimes they feel they have no choice but to live in substandard housing.

From there, the downward spiral can turn sometimes tragic. The abandoned building can be a death trap, as 29-year-old Donald Dupuis found out, just a stone's throw from where we're holding this hearing this afternoon. Other times substandard housing can be just as dangerous. Just ask the two men who felt it was safer to come to Wesley centre and spend the night in emergency shelter than to live in their room. It was a decision that saved their lives, and their co-tenant was not so lucky. He perished when he was unable to escape a tragic fire. Before it was

destroyed, this building had no running water, an impassable fire escape, no fridge or stove and no locks on the room doors. It was not a place where they squatted; it was a building they paid \$275 a month to live in.

True, our discussions today are not aimed at solving all the problems of our housing crisis and I don't want to send the discussion down that path, but it is our belief that this legislation does nothing to help individuals who may be looking at this sort of a situation. We believe in fact that it will mean more are unable to find appropriate housing.

Simply put, in order to move forward I think we have to stop sliding backwards. Unfortunately the stories we hear at Wesley are embarrassingly consistent. When you're marginalized economically, unfortunately you tend to be marginalized with respect to where you can live.

A youth worker in our street outreach program told me that in her eight years working with Wesley she has never met a young person in that program who has lived in completely acceptable housing. That experience is repeated over and over again through our workers who actually help operate our non-profit housing complex operated by our sister agency, Wesley Community Homes.

We may ask ourselves why is it that people decide to live in filth and unsafe conditions and why they don't do something about it. The answer we find is that those living in those conditions often feel powerless. There is a fear that landlords will take away their homes. For young people struggling to overcome enormous barriers and start life on their own, manipulation can sometimes be easy. As less and less information is required to be passed on to tenants, this fear will only grow stronger.

In some other cases, safe housing is simply not affordable, and as rent controls erode, this will become more and more prevalent.

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We don't feel that this legislation comes close to balancing the tenant-landlord relationship when it comes to those who are most vulnerable. It seems also to further discriminate against those who are already facing discrimination on a daily basis.

In 1996, the United Nations wrote a statement entitled "The Progress of Nations," and part of it read:

"The day will come when the progress of nations will be judged not by their military or economic strength nor by the splendour of their capital cities and public buildings but by the wellbeing of their peoples, by their levels of health, nutrition and education, by their opportunities to earn a fair reward for their labours, by their ability to participate in the decisions that affect their lives, by the respect that is shown for their civil and political liberties, by the provisions that are made for those who are vulnerable and disadvantaged."

I think this excerpt for me provides the litmus test that we must apply to this legislation. We must not view it through individual eyes that understand how the system works, as individuals who have access to all the resources we need to protect our interests. We need to view it through the eyes of those who are most vulnerable, so I

return to the story of John, who provided the opening for my presentation this afternoon. I ask you to think about the barriers that individuals like John experience in this community and in others.

When I reflect on this situation, I ask myself three questions: Does this bill increase the options for young people like John? Does it represent no change in their situation? Or does it further the discrimination young people like John already face? Unfortunately, I can only answer yes to the latter.

Ms Newman: I would like to begin by thanking the Chair and the government representatives for the opportunity to speak on the legislative amendments proposed in Bill 96.

The Hamilton Urban Core Community Health Centre is a primary health care service which is committed to work with the residents of the urban core to improve their health and wellbeing, particularly individuals who, due to low income, being homeless or underhoused, language, cultural or other social or economic barriers, experience difficulty in accessing services. This is why we felt it was particularly important to speak to this legislation. I am here with Allan to read this presentation. A group of individuals who are all tenants put this presentation together, and we are reading it, representing those people and their concerns.

We realize that the government attempts with this new legislation, Bill 96, to consolidate and revise the law with respect to residential tenancies. We are concerned, though, that some of the proposed changes will threaten the protections that currently exist for tenants. The health centre recognizes that there are many things that affect a person's health and that housing is a fundamental base to one's sense of self and security. Very often, people who use the services at the centre face barriers to attaining safe, adequate and affordable housing, and the consequences of this have a great effect on their health and wellbeing.

Many of us take our housing for granted, having your own place where you can come home at the end of the day and relax, a place that you can have to yourself or share with those who are close to you, a place where you know you can get a good night's sleep. For many of the people who come to our centre this is not the reality they experience.

Many individuals have low and limited incomes which restrict the choices they have in many areas of their lives, including housing. Oftentimes people are living in places in which they are faced with one or many of the following: rental units that are in need of repairs; overcrowded or shared with strangers; limited facilities, for example, a hot plate for cooking or shared washrooms; hazardous conditions like fire hazards or open electrical sockets; and that are expensive. When faced with these barriers, it becomes the main focus and stress in one's life, leaving it difficult to function through daily routines in the competitive job market or even to keep in touch with family and friends.

We are here today to highlight a few of the concerns we have regarding the proposed tenant protection legislation. Upon speaking to the community members about these changes, the following is a summary of some of the concerns people expressed. The general feeling was that some of the tenants' protections that currently exist will be dismantled by this proposed legislation.

Repairs: With the current legislation the landlord must keep the building maintained adequately and make repairs to the building and the tenant's unit. If a tenant has a repair needing to be done and the landlord does not comply with these responsibilities, the tenant can follow a procedure which includes applying for an order prohibiting rent increases.

This order provides an incentive for landlords to keep their buildings in good shape. The proposed Tenant Protection Act does not include the order prohibiting rent increases, thus taking away the financial incentive for landlords, making it less likely that repairs and maintenance will be done. Tenants are already facing substandard housing conditions, and if this protection is taken away, it will increase unhealthy conditions many people are living in.

Mr Allan Boudreau: Thank you, everybody, for allowing me to speak. I was here this morning and I had the opportunity to hear the other side.

Rights and responsibilities: The Landlord and Tenant Act outlines rights and responsibilities for landlords and tenants. These rights and responsibilities, if followed properly, protect the dignity and the privacy of the tenants. Some examples of this include: Landlords must give 24 hours' notice before entering a tenant's apartment; if the locks are to be changed, the landlord must inform the tenant before the locks are changed.

The new Tenant Protection Act does not include these protections. By not having to give notice to the tenant about these issues, protections are being dismissed, and it seems as though the privacy of the tenant in the home is not being respected.

Discrimination on the basis of income: The Human Rights Code is a fundamental protection from discrimination in housing accommodation. People on low incomes, as it is, face rent costs that often far exceed the affordability standard of 30% of one's income. Considering the limited opportunities in social housing, this is a reality that many people face today, and yet they still find ways to pay their rent, often by sacrificing other necessities, including food and clothing.

Section 200 of the proposed bill would amend the Ontario Human Rights Code to allow landlords to refuse to rent to persons who do not meet their income requirements. This is again taking away a protection which currently exists for tenants — we believe that's how tenants manage to meet their needs, including having money to pay rent — that is a diverse and complex one, not always determined solely by a person's income.

The Chair: Mr Boudreau, I just draw to your attention you have two minutes.

Mr Boudreau: Thank you very much. I'll speed up.

Rent control: The rent registry, which is a part of the existing Rent Control Act, is a place where tenants can turn to check if their rents and rental increases are legal. This is a protection that is very important, especially for those individuals who are currently using social assistance, who have very limited incomes, and who want to ensure they are paying rent at a legal rate.

The Rent Control Act ensures some consistency of rental units within communities by ensuring that rental units have a maximum rent and increase. The Tenant Protection Act will abolish a rent registry and only have rent control on occupied units. It will allow the landlord to raise the rent at their own discretion to a new tenant. This will leave fewer choices for tenants, who will be forced to choose between adequate and affordable.

Tribunal: Right now, the landlord and tenant disputes are handled through the landlord and tenant court or the Rent Control Tribunal. The Tenant Protection Act has proposed having these disputes handled through a tribunal. Currently in the proposed legislation, there is nothing that will be an improvement on the existing situation. There is not a clear description of how this new system will work.

We recommend that this system be more accessible than courts, that the location, staff and hours of operation of the tribunal make it easier for tenants to take part in the process. Also, we highly recommend that the tribunal members be more expert and interested in landlord and tenant matters than those currently involved; for example, people who are tenants and landlords and who have training in mediation and sensitivity.

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To close off our presentation, we'd like to stress the importance of safe, adequate and affordable housing. It is a fundamental right and we strongly believe that a healthy community begins with healthy housing. By looking at all the different community representatives here today, it seems as though this belief is a strong one held in our community, especially considering there was a lot of community input in creating this legislation.

There are probably many individuals who do not know about this legislation and how these changes will affect them. We recognize the government's attempt to make the legislation more effective and efficient by consolidating the residential tenancy laws. This legislation directly affects tenants and landlords and it would have been very useful to have both parties at the table when revisions were being made. If the tenants and landlords are working together to find a solution, there will likely be a greater possibility of success in following through with the guidelines developed.

Thank you very much. May I ask one quick question of the panel?

The Chair: I don't think so, sir. I've gone beyond your time. I know members of the committee would like to ask you questions, but the time has expired. I'm sorry to have to cut you off.

SECOND LEVEL LODGING HOMES TENANTS' COMMITTEE

HAMILTON AND AREA COALITION OF TENANTS ASSOCIATIONS

The Chair: The next delegation is the Hamilton and Area Coalition of Tenants Associations, Jackie Gordon. I have two people coming so I know we'll be introduced to the second person.

Mr John Schalkwyk: My name is John Schalkwyk, representing Second Level Lodging Homes Tenants' Committee.

Ms Jackie Gordon: My name is Jackie Gordon and I am with the Hamilton and Area Coalition of Tenants Associations, also known as HACTA. We are a member-supported voluntary organization made up of tenants, tenants' associations and tenants' supporters. We represent over 3,000 tenants in the Hamilton area. We provide tenants with information on their rights and responsibilities, help them with organizing tenants' associations and we advocate for laws that will protect tenants.

I am joined today by another tenants' organization in Hamilton, the Second Level Lodging Homes Tenants' Committee, and John Schalkwyk is going to speak for that group. John is going to speak first and then I will make my comments when he's done.

Mr Schalkwyk: I am here representing the Second Level Lodging Homes Tenants' Committee. The Second Level Lodging Homes Tenants' Committee is a group formed by second-level lodging homes tenants living in Hamilton. Since its formation in 1995, this committee has worked with local and regional government to bring about improvements in the standards in second-level lodging homes.

In our presentation, we wish to focus on legislative changes with respect to care homes. We will address Bill 96 as it relates to the second-level lodging homes system in our community. We would like to talk about the proposed changes and their impact on protection of second-level lodging homes tenants' rights.

Bill 96, one step forward in the protection of tenants' rights: Under TPA, care home tenants no longer have to give 90 days' notice when they plan to leave the home. Now they only need to give 30 days' notice. This is helpful to tenants who must leave quickly to be hospitalized or to accept a nursing home bed on short notice.

Privacy: We are glad that second-level lodging homes tenants will still have the right to privacy in their homes. We feel tenants need privacy protection. The TPA allows care home operators and tenants to make agreements that allow the landlord to enter the tenant's room or apartment to check on the tenant.

Written Tenancy Agreements: Under the TPA there will be a written tenancy agreement relating to the tenancy of every tenant. We think the agreement should set out not only care services and meals to be provided, but also security of tenure, fair notice of eviction, rent increases, changes in rules and security of belongings.

While written tenancy agreements are required under the legislation, there is no accompanying funding to enforce the requirement or educate landlords and tenants about this requirement. In our experience very few homes are using written tenancy agreements. We need enforcement and education.

Bill 96, two steps backwards in the protection of tenants' rights: We are very concerned about two of the most significant changes to the rights of tenants with disabilities: the addition of new exceptions for landlords and tenants protection and the addition of new grounds for eviction based on the level of care services required.

Under the TPA, tenants with very high care needs or very low care needs may be evicted from a care home. This is a new reason for eviction. Care home tenants are at greater risk of losing their homes than other tenants because of the transfer provisions in the TPA. A care home landlord could decide to transfer a troublesome tenant, for example, someone wanting a written tenancy agreement, by claiming inability to provide the needed care services to the tenant. People who live in care homes will be at risk of being evicted more easily. Tenants may be afraid to make legitimate complaints about the quality of food, care and accommodation because of the new power being given to their landlords.

We think that decisions about a tenant's need for care services should clearly be determined by the tenant, his or her doctor or other primary service provider, and family members when appropriate. Landlords may be in a good position to identify changes in care service needs and to make recommendations, but they cannot be given the right to make these decisions. The right to transfer care home residents should be removed.

Under the TPA, Tenant Protection Act, care homes landlords may force tenants to move out because they want to demolish, convert, repair or renovate the house. Since protection under the Housing Protection Act is gone, it can be done without municipal approval. Landlords are only required to make reasonable efforts to find appropriate alternative accommodation for care home tenants, but the TPA does not say what is considered appropriate, nor does it define what should be a reasonable effort by the landlord.

Subletting: With respect to care homes, the landlord may withhold consent if the subtenant does not meet the admission requirements or guidelines of the landlord. Since it allows the landlord to set requirements and guidelines for the subtenant, this situation could result in discrimination. We ask that you do what you can to protect the rights of 1,600 residents in 84 second-level lodging homes, the most vulnerable of society.

Ms Gordon: Many of the things you'll be hearing from us today are many of the things I'm sure you've already heard on this round of hearings, and things you probably heard a year ago when there was the New Directions discussion paper. We were concerned then and are concerned now, as tenants, that what's going to

happen with Bill 96 is going to hurt us, it's going to hurt our housing and it's going to hurt our communities.

I was really happy to hear Mr Gilchrist say this morning that the government doesn't hate tenants, because frankly it was starting to feel a little bit like maybe they did. I was quite relieved to hear that. It seems like there are many assumptions about the rental housing market that are being made around this legislation that simply are not true.

To landlords, rental housing is an income-producing or a profit-making business. To the government, the rental housing market is about statistics and competing interest groups. But to us, the tenants of Ontario, the rental housing market is about our homes, our families, our children, our safety, our security, our lives and our ability to live and to participate in our community.

The government says they're concerned about Ontario's crumbling rental stock. The government says landlords have no incentive under the current system to invest in their own buildings, which are becoming more and more run down. Clearly, many landlords do invest in their buildings. There are many buildings that are in a good state of repair. It seems the government sees repairs and maintenance as a matter of choice for landlords, not as a matter of rights for tenants. We would like the Tenant Protection Act to make repairs and maintenance a right for tenants, that we have a right to a well-maintained building.

Some of the things that could do that quite easily are maintaining the orders prohibiting a rent increase. It was an effective tool that's easily accessible, easily understood, and it worked. If a landlord doesn't spend the money they collect on maintenance and repairs, they shouldn't be allowed to take another increase. They should have to wait until those outstanding violations have been fixed.

I'm trying not to repeat things that have already been said today, and that's kind of hard to do. I'm sure you're finding that as well.

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If the government was concerned about maintaining Ontario's rental housing stock in good condition, there would be no thought of eliminating OPRI's. Building-wide applications for rent reductions as well are an effective tool. Administratively simple, they help preserve the rental stock.

You've heard about the dangers of vacancy decontrol from others, so I'm not going to go on that too much. However, I think we do need to mention the costs no longer borne provision. Tenants should not have to pay forever for items they've paid for once or twice. Under the current act, once a capital repair has been paid for through a rent increase, it comes out of the rent. Under the new act, tenants will have to pay for that repair through a rent increase forever. That simply is not fair. We'll also experience increases in our rents since there's no limit to how high a rent can go for extraordinary costs such as property tax and utility increases.

We're also concerned about the suggestion that landlords and tenants can somehow negotiate a fair rent together on an equal footing. This just is not the case. With the removal of the rent registry, tenants will be expected to negotiate some sort of fair rent without even having access to the information they need about the unit in order to enter into those discussions. We urge that the rent registry be maintained. It's a vital service that people need.

We believe the changes to rent control will set up a situation where some landlords may encourage tenants or harass tenants to leave their units so they can increase the rent. In a tight rental housing market such as Hamilton, tenants are particularly vulnerable to landlord demands.

Our experience suggests that for many good reasons tenants will not file complaints individually. They are intimidated by the process, they don't have the adequate information or assistance to file complaints and they want harassment just to stop. They don't want to go through a long court proceeding or tribunal proceeding; they want someone to make them stop harassing them. Others just don't have the emotional energy to pursue a complaint. Instead, many tenants will be forced to look for a new apartment in a tighter housing market with higher rents. This kind of harassment also is felt most keenly, most severely by the very groups that are the most vulnerable already: charter groups under the Human Rights Code.

Tenants' associations have proven to be an effective way to limit harassment from superintendents and landlords. The anonymity tenants get from group action makes it safer for individuals to talk about the harassment and do something about it. However, the government has taken this solution away from tenants with their choice to eliminate funding to tenant federations and coalitions that provide that service.

Bill 96 further removes tenants' rights to organize by saying that the tribunal will refuse to hear an eviction case if the reason on the application is that the tenant has been active in a tenants' association or otherwise tried to enforce their rights. Currently, the legislation says a judge cannot hear the case if the judge feels "a reason" the application is being brought forward is the tenants trying to enforce their right through organizing, complaining to the authorities, calling their MPP. The word "a" has been changed to "the" in Bill 96. Now the tribunal will only be able to refuse to hear the case if it says on the application, "I'm evicting this tenant because they tried to enforce their rights." Obviously, that's never going to be on the application. We would strongly urge the committee to put forward an amendment to put it back to "a reason." That's very important to us.

We think that if the government understood tenant protection, it would know it's crucial for tenants that legislation limit rent increases to a reasonable guideline. Tenant protection does not eliminate a rent control system in five years, as we've heard will happen under vacancy decontrol. It doesn't increase rents for tenants and it doesn't set up situations that will result in more harassment for tenants and leave tenants with no solutions to

stop this harassment. It doesn't limit the supply of affordable housing options and it doesn't take away tools such as the order prohibiting a rent increase.

When combined with the government's decision to end the construction of non-profit and co-op housing, the potential selloff of public housing and the elimination of funding to tenant federations, it is clear this government does not care about housing needs and the basic housing rights of tenants in this province.

Finally, I want to talk a little bit about vacancy decontrol. Actually, I won't. I'll just stop there. Other people will handle vacancy decontrol.

The Chair: We have an opportunity for one question from the committee. I will give that to the Liberal caucus.

Mr Duncan: Could you take me back to the amendment you requested that was very important. It was a matter of a change of a word. I didn't get the section of the act.

Ms Gordon: I don't have the section in front of me; I'm sorry. I can certainly provide that to the committee.

Mr Duncan: Is it section 79?

Ms Gordon: Section 79.

Mr Duncan: That was the only question I had.

The Chair: Let's move along. We have time for another short question.

Mr Bisson: In short, this act is called the Tenant Protection Act. Do you think tenants are further protected by this act?

Ms Gordon: No, I think this act removes protections that tenants have now.

Mr Bisson: Would you say the title of the bill is opposite to what is actually in the bill?

Ms Gordon: Yes, and you didn't hear us say Tenant Protection Act; you heard us say Bill 96 quite clearly, because we do not feel this provides protection to tenants, that it actually removes protections we have right now. It's a very misleading name, in our opinion.

The Chair: Perhaps we can complete the round.

Mr Wettlaufer: I think part of the reason for misconception about the title of the act is that we have heard from so many tenant groups about things being in the bill that aren't in it.

One of the things I would like to point out is transferring tenancy under care homes. It says, "Care home tenants are at greater risk of losing their homes than other tenants because of transfer provisions in the TPA."

I'm sorry, I don't understand that. The bill is quite explicit in saying, "A landlord may apply to the tribunal for an order transferring a tenant out of a care home," and evicting the tenant, "if the tenant no longer requires the level of care provided by the landlord," or (b) "the tenant requires a level of care that the landlord is not able to provide," and the tribunal may issue an order under clause 1(b) only if it is "satisfied that appropriate alternate accommodation is available for the tenant," and that the level of care the landlord is able to provide, when combined with the community-based services provided to

the tenant in the care home, cannot meet the tenant's care needs. It's very explicit.

The Chair: Very quickly, Mr Wettlaufer.

Mr Wettlaufer: That's all I had, a comment.

The Chair: Did you have a very brief response to that?

Mr Schalkwyk: There are two parts to the bill. One part is with very low-care needs. With very high-care needs they can be evicted, which is a new form of eviction.

Mr Wettlaufer: It doesn't say that.

Ms Gordon: But if a tenant no longer requires the care services the landlord chooses to provide, then the landlord can evict the tenant. It's called a transfer, but it basically means if the tenant no longer needs or wants what the landlord is willing to provide, they will lose their housing and their place in the community. There's no guarantee there's going to be something appropriate for them to go to. We've seen green garbage bag evictions from second-level lodging homes and care homes before, when there was no protection, and that's the fear we as tenants have, that we're going back to those days when there was no protection and tenants could just be told to get out.

Mr Wettlaufer: What does a care home —

The Chair: That's it, Mr Wettlaufer. Sorry, we're out of time. We have to keep moving along. Thank you very much for coming and making your presentation.

1550

BARLAKE TENANTS ASSOCIATION

The Chair: The next presentation is the Barlake Tenants Association, Karen Gillespie and Norma LaForme. Good afternoon.

Ms Karen Gillespie: I'd like to thank the committee for the opportunity to speak to you today about the government's proposed changes to the residential tenancy legislation. My name is Karen Gillespie and I'm a tenant in Hamilton. With me today is another Hamilton tenant, Norma LaForme.

Being able to afford a decent apartment is difficult at the best of times. I'm concerned that your proposed legislation will make me and my housing more vulnerable. As a low-income wage earner, every cent I make is accounted for, and an unexpected bill such as medication, glasses or car repairs throws my very tight budget out of control. Even normal bills, such as dental visits, are luxury items. Housing costs are of course the greatest part of anyone's budget. The knowledge that your housing and your rent are stable and secure is what allows a person to go to work, attend school and participate in the community.

To be able to afford a decent apartment I had to find a roommate to share this cost. This would not be my first choice, as I had to give up my privacy. It also means I'm dependent on someone else for my housing costs to remain manageable. Even with a roommate, I spend more than 30% of my income on housing. Without a roommate, I

would be spending 66% of my net income on shelter, and that does not include hydro.

If the Human Rights Code is amended to allow landlords to refuse to rent to me because of my income, I will be denied access to decent, safe apartments even though I've always paid my rent and lived up to my responsibilities as a tenant. I would urge the government not to amend the Human Rights Code, as such an amendment will take away my ability to secure decent housing.

Should I lose my roommate and need to look for a new apartment, this legislation will make it very difficult for me. Not everybody finds negotiating rent an easy or natural thing to do. I would find it very difficult and intimidating. Many people cannot stand up for themselves and enforce their rights. We have been socialized to be deferential to authority, and landlords are seen as people in authority.

The government is even going to do away with the rent registry, forcing tenants like me to negotiate a rent without the necessary information to do so. This is very unfair and is not tenant protection.

Some of my neighbours are seniors, and I'm very concerned about their ability to find affordable housing should their needs change and they need to find new accommodation. My neighbours are on fixed income and vacancy decontrol will affect their ability to find new housing as well. In fact, even tenants who stay in their current homes will be negatively affected by this legislation, as landlords will have incentive to harass us into leaving so the rents can be raised for incoming tenants.

Maintenance and safety are primary concerns for tenants in my building, across the city and province. Property standards are very hard for tenants to enforce. It can be a long-drawn-out process to get even the most basic repairs done. In many communities there is little money and time to put into property standards. Now, because the provincial government has reduced funding to local governments and increased local taxes through downloading, there is reason to believe that property standards inspections will decline rather than improve.

The government is going to take away the one tool that tenants have been able to rely on to get repairs done, and that is the order prohibiting a rent increase, otherwise known as OPRIs. Tenants have found that landlords who cannot even get a guideline rent increase are suddenly motivated to get repairs done that have been undone for long periods.

You must remember that as tenants we have already paid for maintenance of our homes and the repairs to our building through our rent. Landlords who haven't spent the rent money allocated to repairs and maintenance on repairs and maintenance should not be rewarded with further rent increases. The removal of this from tenants is not tenant protection; it places us at further risk of illness and injury.

With regard to that, I'd just like to add getting fire protection done and also the potential of having asbestos taken care of in a safe, effective manner.

My building has been kept in good repair over the years. I was very pleased to hear my landlord this morning say that he does not have a problem with rent control, that he's more concerned about having a hospital in this city kept from closing. We have one thing in common: that we want to see health care in this city stay at a great level rather than decline. However, in my area the buildings have not been kept in good repair. I'm afraid that the conditions for tenants in those buildings will deteriorate even further should this legislation pass. As I've already said, finding a new apartment is not going to be an option for many of these tenants.

I've heard it said that tenants can solve all their housing problems by moving, but this is untrue. Moving is very stressful, second only to the death of a close relative, and it's very costly. Changing utility connections, hiring a moving van and movers etc are all very expensive.

In addition, tenants make connections to their communities in the same way homeowners do, and moving disrupts these vital connections. Children who change schools frequently do not do as well in school or socially as children who attend one or two schools. Workers need stable housing in order to look for jobs or to go to work each day and be productive.

Decent housing is a requirement for a healthy society and healthy communities. People who live in badly maintained buildings in stressful neighbourhoods or who have to choose between feeding their families and paying the rent are not going to be healthy enough to fully participate in the community or in their own lives.

I've also heard the government say that vacancy decontrol will increase the number of new buildings built. There is no evidence of this happening in any province in Canada or any of the states down south of us that have seen the removal or partial removal of rent controls. Probably the worst effect this legislation will have is to reduce the number of decent, affordable apartments and force tenants on low incomes to live in poorly maintained apartments or to become homeless.

I find it strange that this government appears to be listening only to landlords by bringing forth this legislation, a group that represents only 1% of the population of Ontario, while the tenants who stand to lose the most by this legislation, if passed, represent 35% of the people of Ontario. That's 3.5 million people whom this legislation will be negatively affecting. Why is this government listening to this very small special-interest group? It seems to me that the government should leave current tenant protections alone and let the tenants have security in the knowledge that their home is safe.

Ms Norma LaForme: Hello. I'd like to thank you again for having these hearings and letting the people of Ontario have a right to have an opportunity to respond.

I am a person with a disability. I'm just going to highlight some of the concerns I have about this bill and how it will affect people with disabilities.

Bill 96 says that rent controls will remain in effect as long as tenants do not move from their present apartment. This may be good, but the problem I see with this is that if people have the opportunity to move for jobs or education, they may lose those opportunities because they may feel trapped in their apartment if they feel they would be unable to find other affordable housing. This concerns me, because it means people will have lower self-determination. When people feel trapped they don't feel they have the right to make decisions.

It is no secret that many people with disabilities have limited income. If they need to move to go to school or for employment, as I said, they may find it difficult to get an appropriate apartment.

Another concern I have is the lack of accessible apartment buildings. I've heard cases of people in wheelchairs moving to different cities being unable to find appropriate apartment units to live in. I've heard of such cases when people are employed; just because a person who has a disability has a job doesn't mean they have money to pay for high rent. They have other expenses that come with employment. That's two problems: having accessible housing units for people in wheelchairs and having them accessible in terms of affordable rent.

1600

If rents are going up at a rate people cannot afford — I understand that when people move out of their rental unit, the landlord would be able to raise the rent. If this is the case, it will mean that in a couple of years all the rental housing will be quite high. I can't understand how the government can propose giving the landlords the permission both to raise their rental units as well as to give them a yearly increase. As a result, rental units will skyrocket.

Another concern is the human rights amendment. Section 200 will now give landlords the right to have credit checks for people who are tenants. The problem I see with this is for people who are on social assistance, because unfortunately there seems to be a bias in our community, that people think people on social assistance are irresponsible. That's just not the case. If landlords find out people are on social assistance, they may have the opportunity to discriminate, and I just don't agree with that. That would lead to people not being able to access affordable housing.

Then there's the question of harassment. There are probably provisions in the bill that will stop people from being harassed. However, we all know that if someone wants somebody to leave, there's a pretty good opportunity that they will find ways of, shall we say, convincing the people to leave. This very much concerns me as well. People with disabilities, historically and to this day, have been discriminated against, and if this harassment happens, they will continue to be discriminated against even more. I would think as a caring society our job would be

to protect people with disabilities and other types of vulnerable people from harassment.

I just want to quickly make another point. This morning I heard landlords with concerns about people who damage the apartment unit. As a person who is a good tenant, this concerns me too, and I think this behaviour is unacceptable. But if there is a \$500 security deposit on a housing unit, that would be a hardship to me. If the premise is that 95% of tenants are honest, that would punish all the honest people just to get at the 5% of dishonest people. I hope the government also finds a way to resolve the conflict that would be fair and equitable and that would keep the costs of the litigation down for both the tenant and the landlord.

Before you put Bill 96 into law, I implore you to ensure that the eviction laws are strong so that people cannot be forced to move out of their apartments, that rents in Ontario remain reasonable so that Ontarians with low incomes will be able to access safe places to live, and that apartments are accessible to all citizens. For the future of the tenants of Ontario, the ultimate responsibility lies with your government. If the policies you implement have a negative impact on people, this is your responsibility, so I hope you will make wise decisions on our behalf. Thank you again.

The Chair: Ms Gillespie, Ms LaForme, thank you very much. We have an opportunity for — we'll try it again — one question.

Mr Dominic Agostino (Hamilton East): I want to thank Norma and Karen for the presentation and for the great work they continue to do in this community on behalf of tenants and people with disabilities.

Karen, your presentation talked about some of the obvious weaknesses in the legislation. If you had to point out what you think is the most dangerous part of this legislation as it pertains to protecting tenants and tenants' rights, what would it be?

Ms Gillespie: The loss of the Tenant Protection Act is the biggest disadvantage for the tenants. I know that all the groups you'll hear this afternoon are going to be talking about the disadvantages of this legislation towards tenants and the organizations that work towards tenants' rights, but I believe it's the tenants being able to live in safe, secure homes, being able to go to work knowing that when you come home you're not going to be locked out of your apartment, for whatever reason, whether it's legitimate or not. You need to have some way of knowing in advance. The way I understand the bill to be is that you may come home and the locks could be changed, without notification. There are a lot of people out there who have enough on their plates to deal with, whether it be a sick family, an insecure job situation, not knowing what's going to happen next in their health situations. They need to be able to come home and say, "Okay, I'm safe." I can't see it happening if this legislation passes.

The Chair: Thank you again for coming.

1610

UNITED SENIOR CITIZENS OF ONTARIO
STEELWORKERS ORGANIZATION OF
ACTIVE RETIREES

The Chair: The next presentation is the Steelworkers Organization of Active Retirees and the United Senior Citizens of Ontario, Orville Kerr and Gwen Lee. Good afternoon.

Ms Gwen Lee: Good afternoon, everyone, and thank you for the opportunity to make this presentation. There's a little bit of confusion about who I represent. I only found out a couple of days ago that I was presenting, so I cherry-picked instead of making a proper presentation. I hope it's acceptable.

USCO Zone 14, which both of us represents, has many member clubs, and because it is non-political it represents members of all political stripes. All members of the executive except myself are at the annual convention of USCO Inc. I am therefore speaking on behalf of Zone 14. Orville Kerr, who is sitting beside me, is a board member of Zone 14. He will also make a presentation on their behalf, as well as for SOAR, where he is vice-president. SOAR is the Steelworkers Organization of Active Retirees.

I am a tenant in public housing in a seniors' apartment in Hamilton-Wentworth and I've been on many of their committees, planning together where tenants and staff work together to try and resolve any problems that might arise. We thought we did a very good job in Hamilton and hoped that the last government and this government felt the same.

In the Common Sense Revolution, the Progressive Conservative Party promised it would not hurt senior citizens or the disabled if they were elected as the governing party in Ontario. Two years into their mandate we are being hurt as never before. If they qualify for a subsidy, public housing tenants pay 30% of their income for rent. With user fees for everything from registration for disabled transportation to prescription drugs, and more new registration fees and user fees coming along all the time, how can we possibly cope with Bill 96? Certain sections of the Landlord and Tenant Act do not apply to public housing tenants. Will these same exemptions apply when municipalities become responsible for social housing? I see Mr Gilchrist nodding his head, so I hope that's true.

Hamilton-Wentworth is a caring community for its low-income residents. Residents in this community come from many other areas of Ontario because of the policy of the provincial government that allows Ontario residents to apply for accommodation anywhere in the province. Seniors were able to apply for a unit with this local housing authority no matter where in Ontario they lived and so were able to live near family and friends.

We have a very high percentage of rent-geared-to-income tenants because Hamilton-Wentworth cared enough to build the needed units — I should also say here with assistance from Central Mortgage and Housing Corp and the province. Because some of our neighbouring municipalities did not establish much, if any, social housing, their residents may have moved into Hamilton-Wentworth's units. This will place an unfair burden on taxpayers in the Hamilton-Wentworth region when the municipality becomes responsible for public housing. How does the provincial government intend to level the playing-field and share the cost of social housing among municipalities?

In Bill 96 as written, although present tenants would be covered by current rent increases of no more than 2.8% each year, every time a new tenant moves in a landlord can charge whatever he likes. Some landlords may harass tenants, pushing them to move out so that new tenants can move in and pay higher rents. Provision is made in the bill for an anti-harassment process, but it does not define what harassment is.

Death of a tenant: Thirty days after the death of a tenant may not be sufficient time for next of kin to move everything out of the apartment or house. After a tenant dies, the landlord can keep, sell or dispose of tenants' property on the 31st day after the death. No application to a tribunal is necessary. Some unscrupulous landlords may sell some of tenants' property for far less than it's worth. There is no provision for dealing with this issue. This happened some years ago when a very few finance companies seized and sold property to dummy purchasers when borrowers defaulted on loans.

The tribunal: Landlord and tenant disputes will no longer be heard by a judge in a court of law. Instead, a new body called the Ontario Rental Housing Tribunal, made up of government appointees, will hear disputes. If a tribunal is set up, it should be comprised of competent, independent individuals serving up to five years in staggered time periods. This will ensure that all terms do not end at the same time.

In "Care Homes" on page 45 of Bill 96, subsection 88(1), five days does not allow enough time for a tenant to consult a third party and cancel an agreement within five days of signing it. It may take more than five days to even find a third party to consult, and we must remember that some prospective tenants may not have the ability or knowledge to find a competent third party.

Under transfer to alternative facility, a landlord must never be the one to decide that there is a need for more or less care for a resident. This decision must be made by the tenant or his or her representative in conjunction with the doctor and/or the appropriate care agencies as well as the landlord or his representative.

Public housing tenants have to pay 60 days' rent when moving for whatever reason, including death. How will this be affected by the 31st-day-after-death entrance of the landlord to remove all property? Landlords will be able to enter an apartment without notice to show it to prospective

renters, insurers or purchasers. It also lifts an existing restriction against entry after dark. This could be a violation of a tenant's right to privacy. I would like to remind you that the police can't even enter an apartment without a warrant, yet a landlord would be able to come without giving you any kind of notice. At the present time it's 24 hours' notice.

Finally, under supportive housing, in Hamilton we have some supportive housing units under Hamilton-Wentworth Housing Authority. Supportive housing does not come under care homes. Supportive housing bridges the gap where a person is at risk living alone but does not qualify for admission to a nursing home, home for the aged or similar accommodation. Tenants pay rent and various options are available to them to enable them to live safely. There is 24-hour-a-day staff onsite. Everything from congregate dining, which is optional, to homemaker assistance is available as needed. An emergency response system is also in place.

In Hamilton-Wentworth, the district health council assists with funding at present and the Victorian Order of Nurses provides homemaker services and St Elizabeth nurses provide the nursing care.

We hope you will address some of the concerns of my fellow presenters. Thank you.

1620

Mr Orville Kerr: This submission was drafted by Bill Fuller and he had to go to a convention in BC, so he asked me to present this. I will eliminate the introduction.

The Steelworkers Organization of Active Retirees is an international organization of retired United Steelworker members with their spouses. The organization was created in 1985 and currently represents 85,000 members in Canada and the United States. SOAR Chapter 10 is located in Hamilton at 1031 Barton Street East. If you want to contact anyone there or wish to contact William Fuller, provincial co-ordinator, the phone number is here and I think you all have that.

We're of the opinion that the government's tenant protection legislation will take away the rights that tenants have under the Landlord and Tenant Act, the Rent Control Act and rights afforded by other legislation.

We are concerned that the bottom line is to eliminate rent controls and have some landlords charge as much as they can as soon as they can. We are concerned that seniors will be forced to move to permit some landlords to implement dramatic rent increases. These revisions will be yet another loss in available and acceptable housing as we now understand it. Senior citizens and citizens at the low end of the income scale will undoubtedly be most affected by the revisions.

Care home residents will also be at the mercy of the landlord with economical, easy and speedy evictions. Care home tenants should continue to enjoy security of their accommodation as defined in the Rent Control Act and the Landlord and Tenant Act. Care home operators should continue to be responsible for providing both the meals

and services they are contracted to provide in accordance with the Rent Control Act.

The province, in terminating cooperative and non-profit housing programs in Ontario, has denied thousands of seniors their option for housing in their retirement years. Housing is one of the basic features that determine quality and standards for its citizens. Ontario, under the current government, seems to be intent on totally eliminating all the structures that have been in place to provide the level of housing we are accustomed to and entitled to. It is one area that Ontario residents should continue to enjoy, particularly residents in the low-income brackets. We in Ontario must keep a comprehensive strategy in place on housing, one that fulfils the needs of all citizens. The government of the day owes that obligation to its citizens.

Low-income seniors will be put at risk of losing affordable housing in our province. Expensive rental housing will assure more poverty, ill health and social isolation for low-income citizens. The current rent control system is a safeguard against unscrupulous landlords and should not be dismantled. We believe the Rental Housing Protection Act should remain in its present form with no changes whatsoever. This is the only protection low-income seniors and tenants who are forced to rent have for their housing needs.

Many seniors are of the opinion that this government has turned its back on them. They look at Bill 26, the omnibus bill, that gave to the government and their staff the right to pick and choose which hospital should be closing or continue to operate. Seniors looked at the drug benefit provisions with user fees for seniors and low-income citizens and are now faced with dramatic changes in accommodation and housing.

We think it is high time the government took a closer look and listened to its citizens. Health care and housing are key ingredients that make our province and our country what they are today. It is a shame to watch it systematically disintegrate at the hands of the Harris government. Seniors and low-income citizens have a vote a long memory. I am sure at some point in time they will equate the two. Seniors in particular will increase dramatically in the next few years. Seniors played a major role in the previous United States election between Bush and Clinton and I am confident they will take these changes into consideration at the ballot box in the future.

That's it. Thank you.

Mr Bisson: A very to-the-point question: A little bit earlier one of the government members, I forget which one, made the comment that tenants shouldn't be worried about this legislation because tenants more or less are making up all of these fears about the bill, that there isn't anything in this bill that's really going to hurt tenants. Are you of that view, that this bill will not harm tenants?

Mr Kerr: I'm sure of it. I haven't got the legislation here that is proposed, but the way I look at it is, I was formerly a rental accommodation owner myself. I rented property for years. There are so many ways you can evict a person. I can't understand the thinking of the

government which makes it so much easier for them to do that. If they don't fix up their property, they can make it so bad that the tenant can't live in there. When they move on, of course the landlord can raise the rent. I don't care what argument is put up; why change it? What's the matter with it the way it is? I never saw any fault with it, I'll tell you. I had no problem in rental accommodation — unless you're a greedy landlord.

Mr Gilchrist: Thank you very much. I appreciate your presentations. Let me just respond to the first one, Ms Lee. You raised a number of questions. I was nodding my head to the first one. The sections of the Landlord and Tenant Act will certainly continue to apply to public housing, regardless of what happens, as part of the Who Does What transfers.

You asked the question about provision in the bill for an anti-harassment process and said that it does not define what harassment is. Harassment is fairly well and comprehensively defined in paragraph 7 of subsection 30(1). But even more to the point, the judicial interpretation of the relevant section of the Human Rights Code would be the legal basis for defining that. The case law that's built up in the past won't change as a result of this bill.

The other issues, just in the few seconds we have here — you've raised the question that public housing tenants have to prepay 60 days' rent when moving for whatever reason, including death. If you've prepaid your rent, it's your unit; it's not vacant. The rules about the landlord being able to remove anything would not apply if you've paid the rent, so you do not have to worry about a conflict in that section.

Finally, supportive housing does come under care homes in most cases.

Ms Lee: That's something I don't understand. I've lived for 20 years where I am now and I was a tenant representative and still am in the area of advisory committee. I know there have been letters and articles in the paper where people have said, "My mother had to give 60 days' notice that she was going to die." You have to pay the 60 days' rent. How can you reconcile the two things? I tell you our general manager would not do it, but some public housing managers might do it: Go in and take the people's property because they're covered by law.

The Chair: Unfortunately, Ms Lee, we've got to move on.

Mr Duncan: I hear your concerns with respect to that particular section. I would like to comment on the issue you raised with respect to the Landlord and Tenant Act and what sections do not apply to public housing tenants. I think the other thing that advocates such as yourself need to be aware of is that the government has now embarked on two initiatives to privatize public housing units: a small portion of Regent Park and a large development in my community called Glengarry.

When we met with the chair of the Ontario Housing Corp, Mr Carson, who would be familiar to people here in Hamilton, we sought an answer to the question of who the

owner of new units would be. Would it continue to be the local housing authority representing the Ontario Housing Corp or would it be the new developer?

We had two differing responses to that question, one from the civil servants who were there and one from Mr Carson. We've asked for written responses to that and to date have not had them. So I would caution that beyond what is going on in Bill 96, there is also significant change going respect to the units that are owned by the Ontario Housing Corp, whether they be here in Hamilton or other parts of the province.

Mr Gilchrist: Fear-mongering.

Mr Duncan: No, it's not fear-mongering, Mr Gilchrist. You ought to be ashamed of yourself. You didn't attend the meeting. The ministry wasn't represented and your own officials haven't responded to questions that were put, both in writing and in the newspaper.

Mr Gilchrist: You didn't invite me to any meeting, Mr Duncan.

Mr Duncan: It was organized by your ministry, Mr Gilchrist.

Mr Gilchrist: Not by me.

The Chair: Boys, boys, boys.

Mr Duncan: It was by your ministry.

Mr Gilchrist: Retract that.

Mr Duncan: But in any event I believe Mr Gilchrist has misled you in the answer to his questions and I think the issues you've raised — I refuse to retract it.

Mr Gilchrist: You're pathetic.

Mr Duncan: You're pathetic.

The Chair: You're both out of order and you're both out of time. Thank you for coming.

Ms Lee: I would just like to mention that on page 16, all those exemptions in Bill 96 are for public housing tenants, but they call it "social housing tenants."

The Chair: Thank you very much for taking the time to make your comments to the committee this afternoon.

Ms Lee: We enjoyed it, as we always do. We try to attend every hearing that's relevant to us. Thanks very much.

1630

WOMAN ABUSE WORKING GROUP

The Chair: The next presentation is the Woman Abuse Working Group, Lisa Singh and Renate Manthei.

Ms Lisa Singh: Good afternoon. My name is Lisa Singh and I represent the Woman Abuse Working Group, or WAWG, as it's known. It's a group of 28 service providers and consumers whose purpose is to develop and implement an accountable community response to woman abuse through the coordination of services, education and prevention in Hamilton-Wentworth.

On July 2, 1997, the Honourable Dianne Cunningham, minister responsible for women's issues, announced the government's strategies to combat violence against women and their children. One of Ms Cunningham's strongest messages was that preventing violence against

women and their children is a key priority for this government. As well, she highlighted the safety of women and their children as paramount and that everyone must share responsibility to prevent violence against women and their children.

The concern of the Woman Abuse Working Group would be to alert this committee to the fact that we believe the changes recommended in Bill 96, section 200, the Tenant Protection Act, in general do not protect or provide safety to women and their children who already live in fear of their personal safety, fear of a life of poverty and fear that they will not find decent, affordable housing for themselves and their children. If anything, section 200 further alienates, betrays and makes it more difficult for women to leave abusive relationships.

It is irresponsible for a government to state from one side of its mouth that it wants to combat violence against women, protect children and keep them safe while the other very clear message being sent in section 200 of Bill 96 is that women will not be protected but rather, in many cases, will be forced to remain in violent relationships. Even if the woman chooses to leave, she will be subject to further abuse and discrimination through the so-called Tenant Protection Act. To be more specific, our greatest concern with Bill 96 is the section which amends the Human Rights Code to effectively eliminate fundamental protections from discrimination in housing accommodations that have now been in place for some 15 years.

The acceptable affordable rental rate is 30% of one's income. For anyone on general welfare or family benefits the shelter portion is over 60% of total income. If a landlord is allowed to turn someone down because he does not believe it's affordable, he can turn down everyone on general welfare or FBA. A 1996 study of landlords shows that 10% would not rent to people on welfare. This is when landlords are not permitted to do so, as opposed to when this legislation is enacted.

Mr Bisson: Mr Chairman, on a point of order: The parliamentary assistant on two or three occasions has not even bothered to listen to the presentations. When he is here, he's either chatting on the one side or chatting on the other; you can't hear the presenters. If you're not going to listen, leave the room. You should pay attention to what the heck is going on. These people are presenting and I would like to hear. I can't hear when you're heckling away. Please listen to what people have to say.

Mr Gilchrist: Mr Chair, on a point of privilege: Mr Bisson's attempt at lowering the tone of these things never ceases to amaze me: 50% of his caucus doesn't even show up today, and he presumes to lecture us.

The point is that my role is to seek answers for the people posing questions. You know that's why this gentleman is here, as a resource, so I can then answer them informedly. I know you'd rather talk about things you don't understand. I'd like to answer —

The Chair: It's not a point of order and it's not a point of privilege. I'd like to hear the delegations. Continue, please.

Ms Singh: Of all the barriers to leaving an abusive relationship, affordable housing is one of the most vital items. It is the biggest single expense in low-income households. Without the stable resource of affordable housing, the struggle for self-reliance is jeopardized. Women and their children who have already been subject to intense physical and emotional trauma do not need to face further hurdles and discrimination in regard to accessing affordable housing.

Proposed recommendations in Bill 96 which allow landlords to do credit checks, credit references, rental histories and income information in tenant sections would discriminate against women who are victims of domestic violence, because, as stated earlier, upon leaving an abusive relationship women must also face a possible life of poverty. However, there's no evidence that she may not be able to pay her monthly housing charges. These changes give landlords the upper hand and permission to refuse to rent to people under false pretences.

Accordingly, we recommend that the section on income information be deleted because of its ability to further alienate, exclude and again place women at a disadvantage. Legalizing the use of income information is about allowing certain landlords to exclude social assistance recipients and other low-income groups from getting decent and affordable housing. Loss of affordable housing and higher rents are key barriers that will force victims to choose between the abuse at home or the abuse and unfair discrimination she will face if the current Bill 96 is passed.

Higher rents: Under the Tenant Protection Act landlords will be able to set the rent at whatever amount they want when a unit is vacant. The rent in any future unit the tenant moves into will not be covered by rent control. Since two thirds of tenants move every five years, the rental market will effectively be decontrolled in five years, and it is expected that rents will rise significantly. Again, higher rents will make it harder for women to leave abusive relationships. We recommend keeping rent control on vacant units.

Harassment: When the landlord knows the rent can be raised for a new tenant, there is financial incentive to evict tenants or harass them into leaving. Women will be extremely vulnerable to this type of harassment. Many women already in a vulnerable state may return to their abusive partner or continue to spend time in temporary places such as local shelters or second-stage housing and counselling programs. The impact this type of scenario would have on a victim of family violence goes against the grain of what this government states it wants to do for women victims and their children. Abuse is about one party having all the power and the other party having none.

Less safety: Under the Tenant Protection Act tenants will not be able to change their locks unless they have their landlord's permission to do so. If a woman is unable to get her landlord's permission to change the locks, her abusive partner could continue to have access to her

children and her home. In addition, under current legislation, landlords can only enter a tenant's unit during daylight hours. Under the Tenant Protection Act landlords would be able to enter between 8 am and 8 pm. For much of the year this extends landlords' access to women's units past daylight hours. This change will make women more vulnerable to harassment by their landlords. We recommend 8 to 4, daylight hours only.

Loss of affordable housing: The new legislation will repeal the Rental Housing Protection Act. This will remove municipal restrictions on the conversion, demolition and renovation of apartment buildings. The amount of affordable housing will likely shrink as units are converted to condominiums or demolished for other investment purposes. This will create more competition for a few apartments but will drive rents up. Women will find it harder to find safe, adequate, affordable housing.

Ms Renate Manthei: My name is Renate Manthei. I'm with the Women's Centre of Hamilton-Wentworth. We are a member of the Woman Abuse Working Group. I just have a few comments to add to what Lisa has presented.

First of all, I'd like to register deep concern and outrage regarding the introduction of Bill 96. We believe Bill 96 is a serious step backwards in the protection of tenants' rights and in access and maintenance of affordable housing for tenants in general and for disadvantaged groups in the population, special-needs groups in particular.

I'm going to focus my presentation on the special needs of those women and children who are most vulnerable with regard to housing needs. These include abused women and their children, single-parent families and low-income single women, as well as women who are disabled. Other presenters today have already spoken on how Bill 96 adversely affects immigrant and refugee women and families and individuals at risk due to health issues, mental health and physical health as well as others.

1640

The several concerns I wish to highlight first of all relate to a landlord's right to require income information and the subsequent right to not rent to anyone for whom the rental unit would represent more than 30% of their income. We feel this is a human rights violation, discriminating against those with low incomes, as we all know very well that the fastest-growing rate of poor people in our communities are single women with families. Because of the poverty and the low income, there are many women who have to pay more than 30% of their income on housing in order to live in decent accommodation. In fact, many individuals on welfare and on family benefits assistance would be excluded.

I looked at some of the payment schedules for people on general welfare and on family benefits assistance. A single parent with a child is presently allowed a maximum of \$500 shelter allowance, which represents 53% of the total income, which is 23% above the guideline that Bill 96 is going to consider. A single parent with two children

is allowed a maximum shelter allowance of \$602, which also represents 53% of total income. In the case of a single person — that could be an older person, a woman whose children have reached the age of 18 and are no longer covered under family benefits, for example — the shelter allowance in this instance is \$520 per month at the maximum level, and that represents 62% of that person's income. If a single mother with two children were to remain within the 30% guideline for shelter costs, she would have to find an apartment for \$332 a month. Certainly in our community that's not easy to do. If these two children are different genders, requiring a three-bedroom place, that's virtually impossible.

Abused women will be placed in greater jeopardy with Bill 96. Finding suitable affordable housing is already a significant barrier to leaving an abusive relationship. Again, it's the economic issue of separating that puts women at a serious disadvantage. We have statistics regarding separation of spouses, where the man's income generally goes up and the woman's income is reduced, and even though she has the responsibility for the children she ends up with a lower income than was the case in a marital situation.

The assaults on tenants' rights will further reduce a woman's self-esteem, which has already been compromised in an abusive relationship, again adding to the barriers in leaving such a relationship. The assaults on tenants' rights, as identified for you this afternoon, fly in the face of moving towards a more equitable, empowered society. These assaults create a climate where further coercion and abuse can take place. Lisa has mentioned some of the instances where we expect further harassment on the part of landlords in situations where there are single women or mother-led households. We fear that the removal of the rights will jeopardize these women and again prevent their safe living in the community.

One of the incidents we feel is of major concern is the assault on privacy, where a landlord can come into a home with no notice once an eviction notice has been passed, over the 12-hour period, and simply show that house. That's a major invasion of privacy and adds to the insecurity and lack of safety for a woman.

Women will feel afraid to assert their need for repairs and maintenance of rental units where the spectre of increasing rent due to repairs will force families to resign themselves to living in places that are substandard, where repairs are not done and where perhaps unsafe situations arise. We feel this is a major concern, not only for adults living in these kinds of places but also for the children. Children require safe and suitable places to live, and the threats that are created by Bill 96 we feel will seriously compromise the needs of children and the right to stability.

Ensuring a stock of affordable housing and the ability of vulnerable families to access this housing is essential in providing children with an environment that will enable them to grow up healthy, safe and secure. Undue stress put on parents whose rights and securities as tenants are eroded bodes ill for our most valuable future resource, our

children. It is the government's responsibility to provide leadership to ensure that children's needs are met and are not co-opted in favour of the convenience and the rights of landlords. Removal of rent control on vacant rental units will see the proliferation of a gap between those in our community who are well housed because they can afford it and those who are not because they cannot afford the escalating rents that we feel will occur under an uncontrolled situation. Landlords will favour the well-off renter, and housing at the low end of the market will diminish in both quantity and quality. Housing should be considered a social right, and we feel that those whose circumstances have been made more vulnerable should not be jeopardized in terms of finding secure, appropriate and safe housing.

Those are my comments.

Mrs Munro: Thank you very much for bringing your views here today for us. You've raised many areas, and I'm sure the Chair is not going to allow me time to deal with all of those, but just one or two things. First of all, I wanted to make sure we understand that when you're talking about the 30%, this is strictly a practice that some landlords engage in. There is nothing in the legislation that refers to any number, any percentage or anything like that. The legislation does talk about the opportunity for a landlord to use a number of criteria, such as the credit checks, the tenant history and so forth. I just wanted to make that clear, because certainly there are many people who would spend more than 30% on their accommodation. There's nothing there that says 30%.

Mr Duncan: I would like to comment on that issue. The chair of the Ontario Human Rights Commission, Mr Norton, a former Conservative cabinet minister and an appointee of this government, concurs with your opinion. The issue doesn't revolve around credit checks. Landlords can do that now. The issue is around income checks and what the source of income is.

I wonder if you're familiar with the eventual compromise that was reached in Quebec whereby source of income could be used as a last reference if there was no credit history or any other type of history a landlord could use. That's been adopted in Quebec, as I understand it. I wonder if you're familiar with that and if you have any comment.

Ms Manthei: Our concerns are with vulnerable people at the low-income level. We feel they are the ones who are going to end up having income checked more often than not. It's going to affect people who are on family benefits assistance or welfare because their opportunity to develop a credit rating is significantly less. Our point still stands, that it is the people at the low-income level who are going to be more severely affected by this income check.

Mr Bisson: Thank you very much for your presentation. I've heard this government on a number of occasions, in the House and on committee, espouse that they respect the issue of privacy of the individual, yet in the legislation under subsection 20(3) the landlord is given greater powers to enter the unit if they're showing the unit

to somebody else, without notice as long as it's done between 8 in the morning and 8 in the evening. Section 21 gives the landlord, while you're living in the apartment, the ability to enter the unit, it says under subsection (4), "for any other reasonable reason of entry specified in the tenancy agreement," and that can be a whole bunch of things. How do you square that with a government that says it respects the rights and the privacy of an individual, yet they do something that really, according to a lot of people, takes away privacy? What's the motive? Why would they do it?

Ms Singh: I think women have been marginalized, especially women who have come from abusive relationships. The government is focused mostly on landlords, who have more power and control. These are women who come from relationships where power and control is an issue for them. We're looking at placing them in another situation where once again they have limited power and control. Government is taking away from them that right and that power and control to protect themselves, to have privacy in their own homes.

Ms Manthei: Your question is why that's happening. It sounds like a rhetorical question. I'm not sure why, but we're certainly aware of the effects it will have. As Lisa said, it will not create the feeling that people are safe, especially women who have gone through power and control issues. I don't know why the government would do that. A lack of respect for people.

The Chair: Thank you. I'm sorry to be so brisk but we've somehow got to keep the hearings rolling. I thank you ladies for coming and making your presentation to the committee this afternoon.

1650

LABOURHOOD HOMES RESOURCE CENTRE

MENTAL HEALTH RIGHTS COALITION OF HAMILTON-WENTWORTH

HOUSING HELP CENTRE OF HAMILTON-WENTWORTH

The Chair: The Settlement and Integration Services Organization, has telephoned us and indicated that they are unable to appear this afternoon, so the next delegation will be the Labourhood Homes Resource Centre. I have three speakers: Mitch Holt, Mark Davies and Sharon Hafner.

Mr Bisson: Which delegation —

The Chair: I know I've skipped one.

Mr Bisson: Which is the group that is not —

The Chair: That's cancelled? It's the Settlement and Integration Services Organization. The group before you now is the Labourhood Homes Resource Centre. Good afternoon. I trust you'll identify yourselves.

Ms Shannah Murray: Good afternoon. My name is Shannah Murray and I work for Labourhood Homes

Resource Centre. The chair of our board, Mitch Holt, is unable to attend today's hearings so I'll present for Labourhood in his absence. I'm joined today by Mark Davies from the Mental Health Rights Coalition and Sharon Hafner from the Housing Help Centre.

Labourhood Homes Resource Centre Inc is a non-profit housing development, advocacy and education organization created in 1989 as a joint initiative of the Hamilton and District Labour Council and the Social Planning and Research Council. Our work is supported by Hamilton's labour community.

As a resource group working to develop social housing, we have attained a good understanding of the housing needs of our community. We have seen long waiting lists for subsidized housing and we have seen tenants living in substandard accommodations while they wait for decent, affordable housing.

When the provincial government cancelled the non-profit housing program, the supply problems facing our community as well as the rest of the province were exacerbated. If Bill 96 passes as proposed, the supply problems will reach crisis proportions. The repeal of the Rental Housing Protection Act will allow landlords to convert their properties to condominiums or non-residential purposes without any regard for the housing needs of the community or the tenants who live in these units. The repeal of the RHPA will mean a loss of affordable rental accommodation for Hamilton and area tenants. This legislation will also decrease the supply of affordable rental housing through vacancy decontrol. As tenants move, rents will escalate and the supply of affordable rental housing will be lost. The economic realities that have caused our province's supply problems have not been addressed by this legislation. Rather, the so-called Tenant Protection Act takes away protections from tenants and makes them and their housing more vulnerable.

I could go on about the supply problems and how this bill does not address the root causes but rather adds to the problem. However, we thought that the best way to understand the impact of an inadequate supply of affordable rental housing is by understanding what people looking for housing and struggling to maintain their housing go through. Sharon and Mark both work with people whose lives are directly affected by the lack of affordable housing and they will be speaking to you now.

Mr Mark Davies: Good afternoon, ladies and gentlemen. My name is Mark Davies and I represent the Mental Health Rights Coalition of Hamilton-Wentworth. I'm here today to talk about the Tenant Protection Act, which I think is more aptly proposed as the landlords' protection from tenants act.

The Hamilton Mental Health Rights Coalition is a not-for-profit, consumer-driven organization. As part of our mandate we advocate on behalf of mental health consumers in order to achieve an equitable quality of life. In doing so, it is our belief that all individuals, regardless of disability, have the right to certain basic living essentials, these being food, shelter, income and care.

Furthermore, these essentials should not be limited to individuals based on race, gender, disability, ability, marital or family status nor, specifically, income.

The potential impact of section 200 of Bill 96 whereby income information may be used to disqualify potential individuals from tenancy will have, in our opinion, widely detrimental consequences to an overwhelming majority of consumer-survivors in the Hamilton-Wentworth region and indeed across the province of Ontario.

In response to section 200 of Bill 96, it should be noted that the Mental Health Rights Coalition does not contend that landlords should not have access to income information where it is used in a non-discriminatory manner. However, as proposed, the amendment to this section would allow landlords to discriminate at will against individuals with a mental illness who are on some form of social assistance, thus giving no opportunity for recourse such as is now available through the existence of section 21 of the Human Rights Code.

In Hamilton-Wentworth there are an estimated 13,600 individuals suffering from severe mental illness. As well, it is estimated that there are approximately 95,971 individuals living in Hamilton-Wentworth who suffer from one or more mental health disorders. These numbers are staggering when one considers that the large majority of these individuals suffering from mental illnesses are on some form of social assistance, either FBA disability, Canada pension plan disability or general welfare assistance. It is far more of a concern if one considers that these individuals represent only a small portion of the population who are depending on social assistance who may be discriminated against by landlords if this amendment is passed.

Mental health consumers are often discriminated against because of their illness, putting individuals into an isolated environment which not only inhibits access to basic needs, but often contributes to increased alienation and possible recurrence of their illness, resulting in costly hospitalization. To further discriminate against any individual because of income, resulting in inaccessible housing options, will quite simply exacerbate the present situation.

In 1995 there were approximately 161 homeless individuals on the streets of Hamilton on any given night. Of these, 38% were identified as having a mental illness. With funding cuts, potential hospital closures and limitations on supportive housing, we expect this figure to rise dramatically in the near future. Under the proposed amendment, this statistic will significantly increase to devastating proportions, with repercussions not only for mental health consumers but the community as a whole.

Barring homelessness, mental health consumers would have no option but to live in substandard conditions and/or in temporary shelters, providing great stress on both these individuals and care providers. Recent consequences of such situations have contributed to the tragic deaths of several mental health consumers in our city and across the province. One only needs to look at today's Hamilton Spectator on page A4 for an article by Carolynne Wheeler

about a man who has spent the last few years living on the streets and in hostels who was found dead last Thursday in one of the back streets of the downtown core.

This situation obviously will be exacerbated during the winter months, when many homeless people or those in substandard housing will experience even greater stress, greater health problems and greater difficulty in maintaining even the most basic necessities of life. Often considered some of the most vulnerable people in our community, mental health consumers would face the added complication and discrimination of being disqualified from adequate housing at the whim of landlords who will be able to refuse to rent to them, with the full support of the government of Ontario and this bill.

In a climate where the Ontario government is encouraging, both financially and legislatively, the increased reintegration of mental health consumers into the community, such a move to remove the protection afforded by the current Human Rights Code is both hypocritical and shortsighted.

Finally, mental health organizations and agencies across the province for many years now have been battling the stigma and prejudice which is often associated with an individual who suffers from some form of mental illness. This amendment, in theory, would seem to condone the ongoing practice of such discrimination, based on misconceptions and lack of understanding. In practice, this amendment allows for mental health consumers and all vulnerable individuals on social assistance to be openly and unabatedly refused their basic needs as human beings.

The recommendation of the Mental Health Rights Coalition of Hamilton-Wentworth is that the Human Rights Code must not be tampered with or amended to allow the collection of income information, in that such a move will violate the most basic human rights of adequate shelter, community integration and an individual's right to choose safe, reasonable and affordable accommodations.

1700

Ms Sharon Hafner: Good afternoon. My name is Sharon Hafner and I'm with the Housing Help Centre of Hamilton-Wentworth. I'd like to take a minute to thank Labourhood for graciously allowing me to share some of their time here with you today.

As you can see from the groups you've heard from this afternoon, there are a large number of tenants and organizations that work with tenants that are concerned about Bill 96, the so-called Tenant Protection Act. Fortunately, those people who were granted time here this afternoon were willing to share their time in order for more of us to have the opportunity to identify some of our concerns with Bill 96. It's that generosity that has allowed me to speak to you here today.

The Housing Help Centre of Hamilton-Wentworth is a storefront community service which helps people find and maintain safe, secure, adequate, affordable housing. The centre is set up so that people can use a self-directed approach or receive intensive assistance from staff, and every level of assistance in between. While the centre

provides assistance to any tenant who requires it, we provide service primarily to people with low incomes or special needs.

In order to give you a picture of the barriers that the people we work with face, let me quote some statistics. Of the people who use the centre's services in a more intensive manner: 23% of the people we work with have a physical disability, 19% have a psychiatric disability and 21% are victims of domestic violence. Most people's incomes were extremely low: 31% were receiving general welfare assistance, 31% were receiving a disability pension, 11% were receiving family benefits. Only 12% were receiving some income from employment.

The centre opened its doors in May 1989, and since then we have responded to over 100,000 inquiries. In 1996 alone the centre had over 13,000 contacts with people needing our services.

In addition to providing assistance to people who are attempting to find and/or maintain their housing, the centre also provides tenant education and engages in research, policy analysis, workshops and committee work. The centre documents the need for affordable housing in Hamilton-Wentworth, identifies hard-pressed groups, analyses the effectiveness of existing housing programs and works for improvements in housing policies.

The Housing Help Centre is coming here today from an informed position on the experiences, needs and problems of the most vulnerable people in this community. We are a leader in working with and advocating for the people who are the most housing disadvantaged in the region.

We're here today because, like everyone else you've been hearing from this afternoon, we're very concerned about the impact of the Tenant Protection Act on all tenants, but especially those who are most vulnerable: those with low incomes, people with disabilities, people with mental health difficulties, young people, women attempting to leave abusive relationships, to name just a few. These are the people that we work with.

The number of changes proposed in the Tenant Protection Act are quite staggering, and we have serious concerns with most of the proposed changes. Unfortunately, even a full 20 minutes would not be nearly adequate time to address all of our concerns. What we have decided to do is to speak to the issue of vacancy decontrol, especially as it will affect the people we work with. Let me say with respect to all of the many other issues that we would like to speak to that we share the concerns that have been expressed by the other tenants and organizations that work with tenants who have spoken here today and in other communities prior to today.

The government has spoken extensively about the so-called Tenant Protection Act and it has created I think a powerful image in the minds of people to hear that phrase over and over again. I'd like to spend a little bit of time today trying to create a mental picture for people that's a little bit more accurate.

If one thinks of a tenant protection system as a house or an apartment, a fitting analogy we think, then a nice,

warm, well-maintained, affordable house would be a good tenant protection system and a run-down house with a leaky roof, broken windows and cockroaches would be a bad tenant protection system. If the Tenant Protection Act was a house, it would be condemned, as I think you're hearing tenants and people who work with tenants say here today. One of the cornerstones of a nice, secure, warm and cozy house, or tenant protection system, has to be an adequate supply of affordable rental housing for tenants. Without that essential cornerstone, you do not have a tenant protection system.

Over the years we have built tenants a fairly nice little house, at least in comparison to Bill 96. A series of individual bricks or controls have been put in place which help to keep rental housing relatively affordable. I say "relatively" here because even with rent controls, allowable rent increases have been higher than inflation for the last several years, making housing less affordable than we would like to see.

With the proposed Tenant Protection Act, that all changes. The image that comes to mind on hearing the words "Tenant Protection Act" is probably something like a row of beautiful tall trees around their home, something that surrounds tenants in their homes and protects them from anything bad that could happen — a very nice, compelling image and one that I think a lot of people in the public have bought into. After reading the act, however, one has to change that mental image. After reading the act, the image that comes to mind is something more along the lines of a wrecking ball — a very large wrecking ball. If Bill 96 is passed, that wrecking ball will hit the house and demolish it. Along with everything else that's destroyed, affordable housing will be destroyed.

Let me talk about one of the specific protections that are part of our current tenant protection system right now. That protection is rent control. Rent control is a very important brick in the house of tenant protection. Even though allowable rent increases have been above inflation rates for several years, our system of rent controls have kept housing relatively affordable. If the TPA wrecking ball is allowed to hit our house of tenant protection, our rent control brick will come tumbling down and affordable housing with it.

As you already know, under the Tenant Protection Act, landlords will be allowed to set the rent at whatever amount they want for new tenants through a process called vacancy decontrol. Government assurances to the contrary, double-digit rent increases are expected by most people. Rent increases have been extremely large in other communities that have introduced vacancy decontrol. For example, as I think you have heard from another presenter, New York introduced vacancy decontrol in the 1970s and rents increased 52% over a three-year period. The loss of rent control as it now exists will severely limit tenant access to affordable accommodation. If rents increase by 20%, then the rent on a \$500 apartment could go up by \$100. If New York's experience is reproduced in Ontario, the rent increase on a \$500 apartment could be as high as

\$250. Extremely few tenants will be able to afford such increases.

Let me try to explain what all this means to some of the people we work with. Many of the single people who use our services receive social assistance. A single person on general welfare assistance receives a maximum of \$520 a month; \$325 of that is the person's shelter allowance. It should be noted that \$325 is 62.5% of the person's income, way above the 30% which is commonly considered to be affordable. This will create real problems when Bill 96 is passed and landlords are allowed to use tenants' income information to refuse to rent to them. This change will make it extremely difficult for people on social assistance to find any housing at all.

So a single person on welfare receives \$520 a month; \$325 of that is supposed to pay for the person's rent. However, it is extremely difficult for people to find a one-bedroom apartment in Hamilton for \$325. A study conducted by the Housing Help Centre in 1996 determined that the average rent for a one-bedroom apartment in Hamilton was \$451. If a person on social assistance paid this amount for an apartment, they would only have \$69 left for all of their other expenses, including food.

People are already finding it extremely difficult to find affordable housing given their incomes. I have to tell you that it's extremely difficult when I have a woman in my office saying she just can't shave any more off her expenses and her housing is still not affordable.

The Chair: Ms Hafner, you have two minutes.

Ms Hafner: Okay. She tells me that she could save a few dollars a month by getting rid of her phone, but she doesn't feel that she can, because she has a child who has extreme allergic reactions and she needs to be able to call 911. "What can I do?" she asks me. "The phone is the only thing I can cut, but if I don't have a phone, my child could die." What do I say to her?

It's extremely difficult when I'm talking to someone who says, "Yes, okay, I could afford that apartment if I bought less food, and if I reduced my food by that amount, that would be okay because I could probably only lose about five or 10 pounds and I can manage that." What do I say to this person? Encourage him to cut his food budget, even if it means he's getting inadequate amounts of food, so he can get an apartment, or encourage him to keep looking for something cheaper, even though I know he has been looking for two weeks and this is the cheapest apartment he has found and that he is currently living on the streets?

What do I say when people tell me how they manage to pay their rent, like the person who has turned his hot water heater off and showers in cold water to save the hydro costs? "It's not too bad right now because it's summer," he tells me, "and the water warms up in the hot water tank even when it's not on. So the water isn't really cold, just lukewarm." Or the person who tells me she can eat only every other day so that she can feed her children adequately. The stories are endless, I could go on and on, but they paint a very desperate picture, a picture of people

not having enough money to pay all their expenses. Some of the people I've told you about have found ways to keep their housing, even if it means doing without hot water or eating only every other day, but many others can't find a way to afford their rents and are evicted for being in arrears.

This is the situation right now. What happens with vacancy decontrol is that rents will escalate and these stories will become even more desperate, even though I can't imagine at this point how they could become more desperate. But if this legislation passes, I can come back and tell you the stories and the things that people are having to do to be able to afford their rents. I wouldn't have predicted the stories I told you here today, and a couple of years —

The Chair: Ms Hafner, we're out of time.

Ms Hafner: Thank you very much.

The Chair: Thank you, Ms Hafner, Ms Murray, Mr Davies, for coming and making your presentation to the committee.

1710

COMMUNITY LEGAL SERVICES OF NIAGARA SOUTH

HALTON COMMUNITY LEGAL SERVICES

The Chair: The next presentation is the Community Legal Services of Niagara South, Michael Foster and Marilyn King.

Mr Michael Foster: Good afternoon. Mr Chairman, members of the committee, I'd like to express my appreciation for being given the opportunity to speak. I am from a community legal clinic in Niagara south and that represents the Welland and Fort Erie area. I'm also here presenting on behalf of the legal clinic that is located in St Catharines, known as Niagara north. I'm here with Marilyn King, who is from Halton Hills legal clinic, and she will be dealing with issues related to access to justice.

I intend to speak on two matters: one related to privacy rates and the other related to disposal of property or the distress remedies under the proposed legislation. I have submitted papers from both clinics, Niagara north and Niagara south, which deal with both of the issues I will deal with. I will just touch on the high points, but what I urge you to consider is that each of the papers presents proposed changes to the legislation which we feel represent what will be my theme, which is striking a reasonable balance between tenants and landlords. I urge you to consider the amendments that are suggested in those papers. I will touch on some of them briefly.

The first issue I'd like to discuss is privacy rights. Obviously this is an essential element for a landlord-tenant relationship and one that should not be abrogated lightly. The concern that we have with the legislation is contained in subsection 20(3) and what it allows landlords to now do is enter and show to prospective tenants a

tenant's apartment without notice. The key is being allowed to do this without notice.

All that the landlord need do is serve a notice of termination to the tenant. It matters not that the tenant is contesting the notice. It matters not that the notice itself would not survive a court challenge. It matters not that the grounds for the notice by the landlord would be otherwise groundless. Having served the notice, the landlord has the right to simply show up at a tenant's apartment, knock on the door, inform the tenant that he is intending to show a prospective tenant through and that's it. The landlord is now allowed to enter the apartment. The tenant has no remedy to stop him.

In a nutshell, there's no reason in our submission in a sense of fairness why this section shouldn't be contained within the provisions of section 21. You could simply add it as a fifth section, which section requires that written notice be given to a tenant for an entry. There's no reason to consider this provision or this reason to be on a par with the other without-notice situations that have been covered under section 20. In other words, this is not a case of emergency for which one could expect that there should be no notice. This is not a case where the landlord and the tenant consent to the entry, in which case there need be no notice. This is not a case where you don't need notice because there's a cleaning arrangement.

This is a requirement that is no different than the provision of subsection 21(3), which allows a landlord to show a prospective purchaser through the property. There is no way to reconcile, in our opinion, the distinction between a prospective purchaser and a prospective tenant. If you have to give written notice to a prospective purchaser, then certainly you must give written notice to show a prospective tenant.

The second prong to our submission would be that the current provision allows that either the landlord or the tenant could give the notice of termination and then these provisions would flip in. We are perfectly in agreement with the fact that when a tenant gives a notice to vacate, naturally a landlord should have the ability to show prospective tenants through. There's no dispute about that.

The question is, at what point should a landlord be entitled to do so when they give a notice? I would say that because every tenant is presumed to be able to challenge a notice that a landlord gives and because not every notice is going to display a reasonable ground, if the tenant does not contest the notice, then so be it. The landlord should be allowed to then show prospective tenants through.

The corollary of the opposition is that if a landlord is allowed to give any notice, even knowing that it won't be upheld and that it will be challenged by the tenant and that therefore the tenant is going nowhere, why should the tenant then be subjected to the harassment of a landlord taking tenants through? That's the easy way, the simple way to resolve that provision.

The other area under privacy rights that I wanted to discuss was an area that's been previously referred to by other speakers, and that's the changing of locks. Under the

current legislation it is illegal for both a landlord and a tenant to change or alter a locking system without the consent of the other party. That's fair; that's reasonable. What the legislation has done is created a further reasonable step which, in my submission, is acceptable, which is to allow the landlord to unilaterally change the lock as long as he gives a key to the tenant. I have no problem with that change as long as you again make it fair and allow the tenant an equal right.

I say that because of submissions that have been made by presenters just before me. People who are going to be subjected to abuse, abusive ex-spouses, other dangerous situations, those are exactly the types of people who need the protection of lockout provisions. Give them both the same power. Give the landlord the right to unilaterally change the locks, but give the tenant the same right and add a precondition that, in either case, whoever's going to change the lock must immediately give a key to the other party. The legislation seems to be silent about that and we hope it will address it, but I think the addition of a simple word like "immediately" to "give replacement keys" would solve a lot of problems, like landlords saying, "I'll give them to you in 24 hours or 48 hours."

The other area I want to discuss that we've provided in the paper is the issue of the disposal of property. Those are sections that are found scattered about this legislation that the proposed amendment we suggest would tie all together and provide a greater consistency with all of the provisions. They would have the same rules for the same types of situations. There would be no distinction between a tenant who vacates as opposed to a tenant who leaves or abandons as a result of a court order. It would make no distinction between a tenant who dies and/or tenants who have mobile homes.

The real concern we have with respect to the security of belongings is the powers that it gives a landlord. Landlords in any of the four sections referred to can do one of three things: They can sell the belongings; they can dispose of or just trash the belongings or they can keep for themselves the belongings. They can take any of that property left behind in a circumstance where the tenant can't take it with them, whatever the four reasons are.

The problem is that the tenant is given no power to recover those items in cases of a situation where a tenant vacates, yet they are given a limited power to do that where there's an abandonment or a death. But more important, the tenant has no right to ask for landlords to be accountable in situations where they clearly take advantage. I'll give you this situation in every case: a landlord who sells property under either of the categories for \$1 to his brother. There's nothing in the legislation that talks about a landlord selling for fair market value or a landlord getting a reasonable amount for a tenant's belongings, so a landlord could do just that, without recourse, with property in a tenant's apartment that doesn't even belong to the tenant. If I had my guitar at a co-tenant's apartment, not only does the tenant not have

the power to challenge but I don't even have the power to do it.

1720

I think there are some serious problems with the security of belongings clause. There has to be some accountability for landlords in regard to what they're doing with the property. The selling is one obvious aspect. The ability to allow a landlord to retain the property, despite the value of the property in relation to what is owed, makes absolutely no sense at all. If you're going to give that power, then put a corresponding duty to have the landlord account for, inventory the property that he's claiming to retain. That's not going to be a great task if we're dealing with valuable property.

Those are the submissions that I have, and I thank you for your attention. I'll turn the floor over to Marilyn.

Ms Marilyn King: Mr Chair, members of the committee, thank you for the opportunity. My name is Marilyn King and I am from Halton Community Legal Services. I too work at a community legal clinic which provides services to low-income people, in this case in Halton, which includes Georgetown, Acton, Milton, Oakville and Burlington, a fairly diverse geographical territory. That is why I'm here today to address actually a fairly specific point with you, which is access to justice under the Tenant Protection Act.

As you know, the act is proposed as the legislative framework to give tenants and landlords a procedure to access and ensure justice. Certain provisions contained in the Tenant Protection Act present barriers to justice for low-income persons. It's those points I wish to address briefly today. The manner in which the Ontario Rental Housing Tribunal is created may also result in a loss of access to justice. It's imperative, I would respectfully submit, that access to justice be considered in proceeding with the legislation and in setting up the new tribunal.

First, I'd like to address the appointment of tribunal members. Access to justice requires access to a hearing and a determination by a qualified, independent person who has the necessary skills and qualifications to ensure that the law is interpreted and applied correctly and fairly. Currently, as you know, a judge, who has a minimum of 10 years' experience as a lawyer adjudicates upon landlord and tenant applications. Under the TPA, an Ontario Rental Housing Tribunal will be formed to hear all landlord and tenant matters. If the adjudicators in this new tribunal are not qualified experts in the relevant areas of law and in legal requirements and procedures, neither tenants nor landlords will have access to justice.

Members to this tribunal should not be appointed because of political patronage or because they are government employees in a current surplus pool. Members of the new tribunal require expertise and legal training to ensure that justice is done. This is important in a system where lay advocacy is frequent and anticipated. A selection committee should apply appropriate selection criteria, including expertise in the area of residential tenancies,

legal training and strong verbal and written communication skills.

I would also like to address geographic accessibility. I have copies of my submission in writing, but as I was coming from Georgetown to this hearing in Hamilton, it unfortunately took me an unexpected length of time coming on the highway and I was unable to bring them earlier.

I would submit that access to justice requires geographic accessibility to the tribunal that will be hearing these applications. Tribunals must be located in accessible locations or members of the tribunal must be willing to travel to the local community for hearings.

Even with the current locale for hearings, low-income tenants face a geographic barrier to justice. Our clinic provides duty counsel services to tenants on dispute dates, which is like a first appearance day, for tenants at the courthouse in Milton. Milton is the centre where all landlord and tenant applications currently are brought for Georgetown, Acton, Milton, Oakville and Burlington.

Recently we had occasion to meet a tenant from Burlington who had received a notice that his landlord had applied to court to evict him. The tenant, a low-income person, had no means of transportation to the courthouse in Milton. There is absolutely no public transportation that runs north and south in Halton.

One thinks of Oakville, Burlington, GTA, but unfortunately there is no transportation that runs north and south in that region of Halton. This tenant left home at 4 am in Burlington and walked to court to be there for the required 10 am time. Fortunately he was a previous military personnel and he had the physical stamina to do that. He arrived just past 10 am to discover that the landlord had withdrawn the application to evict him.

Tentatively, the location for the tribunal proposed for hearings of applications from Halton I understand to be Hamilton. In Halton, as I've indicated, there is no public transportation north and south. There is no GO train service that runs from Georgetown or Acton towards Hamilton. Most low-income clients whom we provide services to cannot afford cars. We often go to those other jurisdictions to provide legal services because tenants cannot access our office in Georgetown.

There are many low-income people in Halton for whom it would not be feasible, possible or realistically affordable to travel to Hamilton for a hearing. This means that these tenants will not be able to file applications to have repairs done or to defend landlord applications or to pursue situations where there is harassment. Moving the location of hearings to a locale like Hamilton would increase geographic inaccessibility.

Access to justice means that a hearing by a tribunal must be geographically accessible. If the adjudicative body is to be removed from the local region, such as Halton, and to be based in a few select cities, such as Hamilton, tribunal members should travel to local areas to hear applications. This does happen currently, for example, with the Social Assistance Review Board on a

regular basis. Appeals to that tribunal are heard by a single member who travels throughout various areas, including Oakville, Burlington, Milton, Halton Hills. Only in that way can a low-income tenant have access to the mechanism under the Tenant Protection Act to enforce his or her legal rights.

I would also like to address the requirement under the TPA that there be a mandatory dispute in writing.

The Chair: Ms King, if I can interrupt just for a minute. You have two minutes, unfortunately.

Ms King: I'd better be brief.

The TPA does require that a dispute be in writing, and of course that the application be in writing. This requirement is a barrier to justice for those who are not literate, do not read English or do not write English. A person who cannot complete a dispute is effectively denied a right to access and a right to a hearing on the merits and justice of the case because they are required to file a written dispute. Similarly, the time for filing a dispute is unrealistically short and limits access to justice. Although one can serve by mail, the time lines do not allow for the fact that the mail often takes longer than the five days deemed unto the act. A person will receive an application and is not able within the unrealistic time lines given to serve a landlord or file a dispute in writing, yet it's a mandatory requirement to file in writing.

If this mandatory requirement is going to be kept, which I would submit prevents justice, then the time lines have to be lengthened to enable a tenant to comply.

My recommendations, in conclusion, would be that the new tribunal must be geographically accessible and equipped with qualified persons who are able to be fair and just adjudicators. The requirement for a written dispute should be amended so that a person can dispute in person rather than necessarily in writing, which is the legislation as it is now under the Landlord and Tenant Act and the Rent Control Act, and deemed notice after five days by mail should be subject to the right to demonstrate that notice was not received in that time.

The new tribunal is dealing with important rights which have historically been the domain of the superior courts in this province. The creation of this tribunal and the procedures to access it must ensure that tenants, particularly low-income tenants, do not lose access to justice and that the quality of justice is not second class.

The Chair: Ms King, thank you. We're unfortunately out of time. I know members would like to ask you questions.

Ms King: Is there someone with whom I could leave the written copies?

The Chair: Yes, there is. The clerk is now approaching you and he will distribute those copies to the members of the committee. Mr Foster, Ms King, thank you very much for making your presentation to the committee this afternoon.

1730

SOCIAL HOUSING AND ACCESS COMMITTEE

The Chair: The final presentation this afternoon is the Social Housing and Access Committee; Yolisa Nongauza, Sister Agnes Ward and Quin Ho.

Ms Yolisa Nongauza: My name is Yolisa Nongauza and this is Quin Ho. We are members of SHAC, the Social Housing and Access Committee. This is a voluntary organization made up of housing services, landlords, tenants and housing advocates and others concerned with access to and the provision of affordable housing in Hamilton-Wentworth.

I'd like to thank the committee for coming to Hamilton and hearing from those of us concerned with housing issues. Before I make my comments, I'd like to introduce Sister Agnes Ward. She is from the Sisters of St Joseph's refugee program and also represents the ecumenical support committee for refugees and the St Joseph's immigrant women's centre.

Sister Agnes Ward: Good afternoon. I'd like to thank everyone for the opportunity to make this presentation. My comments will be restricted to the impact that I believe this bill will have on refugees and immigrant women.

Those of us who work with refugees and immigrant women, and have for many years, are very concerned about the amendments to the Human Rights Code in section 200 of Bill 96, especially because we consider that these amendments are going to have a very negative and extremely detrimental impact on the ability of refugee claimants and immigrant women, especially those with children, to access the kind of housing they need in Ontario.

As you know, there's been so much on TV. Refugees are survivors. They are survivors of persecution and death threats and many of them have lost family members and are separated from families and all that is dear to them. So they arrive here in Canada – many of us are descendants of refugees – and they have lost everything. They have lost their language, their culture, their identity, everything that went with that, and most often family members, and they face the daunting task of rebuilding their lives.

Immigrant women, especially those who are single mothers, are often survivors of abusive situations; therefore, they don't necessarily have financial support. Often the ex cannot be tracked down or made to support them under the current government system. Considering this scenario, it's absolutely essential to emphasize the necessity for this group of people to have affordable, accessible housing that's appropriate to their emotional, psychological and physical health. If this does not happen, then we see that this is going to have a downside on the health system. But I don't want to focus on that.

One of the real problems is the use of income information which section 200 of Bill 96 will permit landlords

to use, because it's going to allow them to screen out persons on low income on the basis of their income criteria. Typically refugees, refugee claimants and immigrant women, especially single mothers, have low income. Until very recently, refugee claimants coming in were prevented from working, so they were forced on to social assistance. Added to this we have language barriers, lack of Canadian experience, the lack of accreditation in Ontario even though some may be highly educated in their own country of origin.

They face enormous difficulties, so if we have added to this the fact that there's a 30% or whatever rent-to-income ratio, they're automatically going to be disqualified and landlords will be able to refuse to rent to these people. Such discrimination could become universal if section 200 is not amended. Professor Michael Ornstein argues that the use of such income criteria will exclude 100% of refugees on social assistance from low-rental housing.

In our view, this discrimination victimizes and punishes refugees as well as immigrant women and children simply for being on low income. How could they not be, given how they came in?

Moreover, unamended, section 200 makes it appear that the Ontario government sanctions such discrimination. Keith Norton, the Chief Commissioner of the Ontario Human Rights Commission, has pointed out in a letter to Premier Harris that allowing income information to be used in selecting tenants effectively authorizes discrimination against individuals receiving social assistance or in low-paying jobs, who are in a very disadvantaged position with regard to their ability to obtain housing.

The end result will mean that the possibility of accessible housing for refugees and immigrant women and children is dramatically reduced. For the newcomer, finding appropriate housing is extremely difficult. I say this from experience because I have accompanied many, sometimes acting as translator. Refugees and immigrants are often visible minorities, as I said. There's a language barrier, so there is often, or at least sometimes, an underlying, unspoken barrier of discrimination.

Ms Nongauza: Thank you, Sister Agnes. At this stage of the hearing process, there is little if anything tenants can say that you haven't already heard many times over. You might think this makes your job of listening more challenging, but let me assure you that from this side of the table it is an imposing task to say something which will impact on your important deliberations.

The tenants of this region have responded to the bill in writing and before you today. We make a simple request: Hear our voices and the voices of those who speak on our behalf. See our faces. See us as people, your family members, friends and neighbours, when you evaluate the merits of this legislation. Please do not place us in a faceless category which can easily be dismissed.

We are not statistics. We are children, women and men. We are young, old, single and married. We have disabilities. We have been abused by our partners. We are

new immigrants and refugees. We are recipients of social assistance. We are labelled as minorities because of race, culture, language, religion or sexual preference. We are members of this community, we are residents of this province and we have one thing in common: We need a place to live. We need a decent, affordable place to call home for ourselves and our families. We are also united in our opposition to this bill.

The Premier promised tenants that no housing laws would be replaced until there was a superior plan proven to work better. This proposed legislation is an inferior plan. Bill 96 removes fundamental protections found in existing legislation. The list of protections that will be eradicated is a long one and the tenants are frightened, not by change itself but by this very threatening and regressive bill.

1740

A critical protection for tenants is an appropriate supply of affordable rental housing. In reviewing housing legislation, the province first and foremost must focus on supply. We are told that this bill is designated to stimulate construction, but regrettably there is no basis for this theory. Rent regulations are a response to market failure; they are not a cause. We have had market failure in the residential rental market in Ontario for more than two decades.

In response to the supply problem in 1975, the government enacted regulations to protect tenants, to protect us from unfair rent increases and discrimination and to better ensure the proper maintenance of our homes. The construction of new private sector rental apartment buildings was not economically viable in 1975. It is less viable in 1997.

As the cost of building new rental apartments has risen, most of our incomes have declined in real terms. We are less able to afford market rents on new construction. As tenants, we represent increasing demand for affordable rental housing stock. Shelter is a basic need to survive, like food and clothing; it is not an option for us. But the drafters of Bill 96 have failed to distinguish between our collective social need and genuine market demand. We do not have sufficient resources to generate demand in the marketplace.

When there is market demand, then the supply side of the market will function. If there is no market demand, then it will not function. The market does not and will not respond to social need. Bill 96 is premised on a false assumption that the removal of rent controls will allow for construction. As we have said, this ignores history. It also ignores the real economic barriers to construction including property taxes, financing costs, land values and development and construction costs.

This issue of supply is complex. Bill 96 will compound the problem of inadequate supply rather than protect tenants. The loss of rent controls will mean less affordable rental housing.

The repeal of the Rental Housing Protection Act will further reduce housing stock. The RHPA, like rent

regulation, was a government response to market failure designed to protect tenants. Bill 96 removes this protection. As tenants we are already under attack. We are living with dwindling housing options since the decision to end the construction of non-profit and cooperative housing and the sale of public housing units. There is no economic support for this social experiment which will be inflicted on us by Bill 96 if it is passed. We are helpless pawns and we and our families will suffer.

We ask that you direct our government to address the economic realities of the supply problem. Proposals for rental housing supply must be formulated that will truly protect future generations of tenants. We urge you to recommend the abandonment of this proposed legislation.

Bill 96 is an attack on tenants and our homes. If it is passed, the essential building blocks which provide tenants with protection will be dismantled brick by brick. Bill 96 vacancy decontrol will dismantle rent control in Ontario. This will provide a powerful financial incentive for the eviction of tenants. Tenants will be the victims of harassment.

The dismantling of rent control and the repeal of the Rental Housing Protection Act will seriously reduce the supply of affordable rental housing in this province. This represents the loss of a vital tenant protection. The dwindling supply of affordable housing will eliminate choices for tenants.

Bill 96 will lead to increased homelessness and further impoverishment of even larger segments of our already vulnerable population. Bill 96 sanctions the discriminatory use of income information. It violates the Ontario Human Rights Code. Landlords will be allowed freely to exclude from housing single mothers, refugees, people with disabilities, the elderly and individuals receiving social assistance, and in more subtle ways it encourages discrimination.

Bill 96 erodes security of tenure protections. Notices require no details to answer to or warnings of the right to dispute. Notice periods are reduced and unwritten agreements can be enforced without tenants being notified. Bill 96 reduces access to justice for tenants. Geography and costs will prevent low-income tenants from using the new tribunal. The requirement of a written dispute within an unrealistic time frame will eliminate many from a fair hearing.

Maintenance and repair are sacrificed by the bill. There are no minimum fines and cash-strapped municipalities are burdened with enforcement. Orders preventing rent increases, the most effective protection for ensuring proper repairs, are history.

Bill 96 reduces privacy protection with expanded rights of entry for landlords. Locks cannot be changed by tenants, putting abuse victims and others at greater risk. Bill 96 will again allow landlords to disdain tenant property. This ancient remedy of distress was removed in 1969. Bill 96 takes away that protection.

Bill 96 jeopardizes the housing of care home residents. Expanded grounds for eviction threaten vulnerable tenants

who were only recently protected by the Residents' Rights Act. Bill 96 attacks the democratic right of tenants to form tenants' associations. Tenants exercising their rights will be more easily convicted with the loss of this protection.

We urge this committee not to condone legislation which caters exclusively to one special interest group: the owners of existing rental buildings. There is no protection for tenants in Bill 96. Hear our pleas. Do not support the dismantling of rental housing in Ontario.

Mr Quin Ho: Everybody has been listening the whole day to two groups talking: landlords and tenants; in the afternoon all the groups in this society, like seniors, single mothers, handicapped people, refugees and immigrants, the most vulnerable people at the bottom of society.

I have one fundamental question to ask all the members of this committee: When you vote on this bill or change

this bill, do we have social or moral or legal obligations to protect those people who are most vulnerable in this society? Do we have those obligations under international society, under our own society as a whole? Do we really need those protections for those vulnerable people? I think that's fundamental for all of us to think about as you make your decision. That's all I have here.

The Chair: Mr Ho, Ms Nongauza, Sister Ward, thank you for your presentation this afternoon. We have run out of time.

That concludes the public hearing in Hamilton of the standing committee on general government. The committee is adjourning to London at Delta London Armouries, where hearings will be held at 10 o'clock tomorrow morning. This meeting is adjourned.

The committee adjourned at 1749.

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Also taking part / Autres participants et participantes

Mr Peter Kormos (Welland-Thorold ND)
Mr David Turnbull (York Mills PC)

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Mr Tom Prins

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| Labourhood Homes Resource Centre; Mental Health Rights Coalition | |
| of Hamilton-Wentworth; Housing Help Centre of Hamilton-Wentworth | G-4186 |
| Ms Shannah Murray | |
| Mr Mark Davies | |
| Ms Sharon Hafner | |

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Official Report of Debates (Hansard)

Tuesday 12 August 1997

Journal des débats (Hansard)

Mardi 12 août 1997

Standing committee on general government

Tenant Protection Act, 1996

Comité permanent des affaires gouvernementales

**Loi de 1996 sur
la protection des locataires**



Chair: David Tilson
Clerk: Tom Prins

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Tuesday 12 August 1997

Mardi 12 août 1997

The committee met at 1000 in the Delta London Armouries Hotel, London.

TENANT PROTECTION ACT, 1996

LOI DE 1996 SUR LA PROTECTION
DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies / Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

The Chair (Mr David Tilson): Good morning, ladies and gentlemen. These are the public hearings of the standing committee on general government of the Ontario Legislature to review Bill 96.

The first delegation I understand is not here. I will call their names, LIFE*SPIN, Andrew Bolter.

Mr Dwight Duncan (Windsor-Walkerville): Mr Chair, if I may have one moment, I want to apologize to the parliamentary assistant for a comment I made to him yesterday when I rushed in from Windsor. I indicated that he misled a delegation and that was unparliamentary and uncalled for. I want to begin the day by expressing my regret at that and withdrawing the remark.

Mr Steve Gilchrist (Scarborough East): Thank you, and I certainly withdraw any response that you may have taken offence to.

The Chair: I think this is a wonderful way to start the day.

Mr Gilchrist: It's a lovefest.

NORQUAY HOMES LTD

The Chair: We will try to fit Mr Bolter in later. I will call Norquay Homes Ltd, Michael Howe, president. Good morning, sir. You may proceed when ready.

Mr Michael Howe: Good morning. My name is Michael Howe and I'm here today representing Norquay Homes Ltd. Norquay commenced building small single-family homes in 1972. Over the years, the company expanded into land development, general contracting, commercial office and industrial rentals as well as residential rentals. We currently own and manage over 1,100 residential rentals in London, Woodstock, Goderich and Chatham. We have constructed no new residential rental units since 1989.

Let me start by saying that I support the positions taken by Fair Rental Policy Organization on June 19 as well as the comments being made later today by the London Home Builders' Association and the London Property Management Association.

While the government is to be commended for its attempt to correct the problems existing in the present rent control legislation and while I'm supportive of that initiative, I have some concerns.

I'm concerned that we are not ending once and for all the costly bureaucracy and legislation relating to rent control when the time is opportune to do so.

I am concerned that rent control and the rules under which we operate our buildings are being modified on a five-year cycle. This legislative instability makes it difficult to obtain the financing over 30 years that is required to construct new buildings, or even to finance existing buildings.

I'm concerned that the private rental sector is being used to implement the social policy of providing affordable housing for the minority of needy tenants through rent control.

I'm concerned that by the removal of legal maximum rent this legislation is taking away earned capital expenditures and rent increases forgone as a result of depressed market conditions and thereby dooming the rental housing sector of most of the province outside of Metro Toronto to a future of insufficient cash flow to properly maintain their buildings. This policy alone will result in the bankruptcy of many existing provincial landlords outside of Metro, who are at present barely able to continue operating as a result of high vacancies and reduced rents. Freezing rents at the present levels at the bottom of a financial cycle will be disastrous.

I'm concerned that the legislation needs to be amended to allow landlords and tenants to negotiate rent increases in exchange for specific improvements that are above and beyond the property standard requirements, for which the tenant is prepared to pay, and that there should not be a limit on the value of this work.

I'm concerned that the legislation does not provide for the ongoing operation of the provincial courts as the arbiter of disputes and non-payment of rent issues. With a little streamlining, the present system can provide timely resolution of these issues without creating a new and parallel bureaucracy through the Ministry of Housing. If instead it is decided to create this new tribunal, it is im-

perative that two issues be dealt with: First, any tenant who is disputing an application must pay any rent or rent arrears into court before the dispute will be heard; and second, the discretion to delay an eviction by the tribunal should be limited to seven days. Above all, the new tribunal system, if implemented, must be fair and equitable to all parties and must be responsive in a timely manner.

I don't propose to go into the merits of these points as I'm sure you've heard in detail from others before me about these issues. Rather, I'd like to discuss the impact that this legislation will have on my company if left in its present format.

First of all, Toronto is different from the rest of the province. As I said earlier, we have rental units in London, Chatham, Goderich and Woodstock. These municipalities have not shared in the recovery and growth experienced in most areas of Metro. Vacancy rates are high, rents are depressed and incentives of one to two months' free rent to attract new tenants or retain existing tenants is the norm.

For example, we have a 42-suite building in Goderich, constructed by us in 1987, at which time the rents were \$440 for one-bedroom suites and \$495 for two-bedroom suites. The current legal maximum rent for this building is \$644 for one-bedroom suites and \$725 for two-bedrooms.

As a result of an almost continual 15% vacancy rate, we are charging only \$475 for a one-bedroom and \$542 for a two-bedroom. However, we're forced to offer the first month free to attract new tenants. As you can see, when you deduct the incentive, after 10 years we are charging virtually the same rent as we did when the building was new, yet our costs to operate this building have increased by over 35%.

We've continued to maintain this building in a first-class manner, as we attempt to do with all of our properties. Notwithstanding that, it has consistently generated insufficient cash flow to cover the cost of doing so, along with paying the mortgage and taxes. Every month we have to come up with the cash to cover this shortfall as well as similar cash shortfalls on other buildings we own. We believe that the employment situation and the economy in general in Huron county and Goderich will improve over time and we'll perhaps be able to charge some portion of the forgone rental increases as well as recoup some of our losses, if we look after the building.

This proposed legislation as presently contemplated would freeze this building in time, denying us the necessary cash flow to make major repairs and replacements when the various components of the building reach the end of their useful life expectancy or to recover the rent increases we've been unable to take as a result of the present poor economic climate.

Our other buildings throughout southwestern Ontario have experienced similar economic conditions. At this time, in our entire portfolio of over 1,100 suites we have none that are rented at the legal maximum. In fact we have some of our higher-end "luxury" units that are today renting for less than they did when they were constructed in 1989.

The inability to increase rents in accordance with the current legislation has taken place against the backdrop of ever-increasing municipal and education taxes, the imposition of non-deductible GST, as well as increased costs of maintenance and replacement as the buildings age, all of which is leading us to an inevitable cash crunch if we have our ability to recover forgone rent increases taken away.

This provision, that of removing the concept of maximum legal rent, will be devastating for my company because, unlike Metro Toronto landlords, we have not been able to take any rent increases for the past seven years and, in many instances, we have had to reduce rents in order to attract tenants.

If the goal of this legislation is to get people like me back constructing residential rental suites, it will fail miserably if some modifications are not made. Recently we considered constructing new residential rental buildings in the Toronto area where demand is high and vacancies are low. In the absence of a resolution of the issues raised here today, as well as assessment inequities, we would not proceed under any circumstances. Such a venture would be far too risky and, in all likelihood, impossible to finance.

Our industry shares the same concerns and beliefs that members of all three political parties share: that every person in Ontario is entitled to decent, well-maintained housing and that those who can't afford that housing should be provided with the assistance required to maintain their housing needs without exceeding a reasonable percentage of their personal resources. Our only difference of opinion is that I believe the cost of achieving these goals should be shared by all taxpayers in Ontario, not just the rental housing industry.

Our company provides rent-geared-to-income units to the various local housing authorities in each of the municipalities in which we have buildings located. I believe that these types of arrangements should be expanded or, in the alternative, a shelter allowance program should be developed which would allow people to remain in their present accommodation without having the stigma of being forced to move to a subsidized housing project, in the unlikely event that such a unit were even to become available. This is especially true where the assistance is only required for a short term, as a result of illness or layoff.

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There are cost-effective ways to achieve a truly fair social housing policy at a fraction of the cost spent on direct government ownership and without the burden being borne by the private residential rental sector through rent controls.

If I may leave you with the following thought, if you truly want to create a well-maintained, adequately balanced supply of housing in all areas of this province, consider the following:

If we are to continue down the path of decontrol-recontrol, you must maintain the concept of maximum legal rent, a concept that was included in both the NDP and Liberal versions of rent control.

Allow landlords and tenants to negotiate improvements to suit each individual tenant's wishes.

Leave the resolution of disputes and non-payment of rent with the courts, but streamline the process.

Finally, develop a cost-effective shelter allowance program that truly meets the needs of those in our society that require short-term and long-term housing assistance.

Thank you very much.

The Chair: Thank you, Mr Howe. We have a few moments for questions.

Mr Duncan: Mr Howe, I just want to explore one of the points with you because it's somewhat unique from the landlord perspective. As to your third recommendation, "Leave the resolution of disputes and non-payment of rent with the courts, but streamline the process," other landlord groups have argued that the court process is unnecessarily cumbersome. Also tenant groups have argued that, and my own experience with it is that it's not well understood. The government is proposing what it's calling a streamlined process. Do you not think that under the proposal the government has put forward that from an efficiency perspective, if it's properly funded and the tribunal people are properly trained, it could be a more effective process?

Mr Howe: No, I do not believe that.

Mr Duncan: You don't believe that?

Mr Howe: No.

Mr Duncan: So you don't agree with FRPO's position on that issue?

Mr Howe: I think that FRPO, quite frankly, has committed itself to trying to improve the proposal rather than dealing with the root of the problem, which is that the proper place to deal with these issues is in the courts where you have a judicial settlement. In the London area the process has been streamlined to some degree. It needs further improvement, but my sense of it is, having experience with the Ministry of Housing over the past 20 years, that it will not be a streamlined process. It will be a very cumbersome, paperwork-oriented process.

Mr Duncan: You're of the view then that the tribunal as proposed will just become another even perhaps less efficient way of dealing with these particular issues.

Mr Howe: This is the same ministry that deals with rent review applications in which at one point in time I believe there was upwards of a three-year backlog in hearing dates. To have a program that is not responsive in a timely manner does not do any of us any service.

Mrs Marion Boyd (London Centre): Thank you for your presentation. I'm very interested in the sort of scenario that you lay out in terms of your investment in Goderich. Forgive me if I sound a little hard, but it just sounds like you made a bad investment.

Mr Howe: I don't believe that's correct, Mr Chair. I think that we all make bad investments and the economy is there to say: "Yes, you made a bad investment. You can't increase your rents because we have too many people in this town out of work." Unfortunately, I think that is the experience of landlords throughout the entire province,

save and except for Metro, and I think that's what we're trying to say to you.

We've gone along with that. We've made up the shortfall out of our own pockets. We go out and we get the money somewhere to pay that, and we have forgone those rent increases. But now you're coming along and saying, 10 years after we've done that consistently every year, "Now, Mr Howe, we're going to change the rules and we're not going to let you collect that rent." I don't believe that's fair either, and there's where I have a problem with the new legislation. That's my biggest concern with it.

Mrs Boyd: I gather it is and, really, when we changed the Liberal rent control legislation, putting that maximum in was partly to answer that issue, that if you couldn't raise them at the time that, if economic conditions changed, it might be possible. I certainly hear from a lot of landlords, both large and small, who are really concerned that a lot of the focus has been on the specific problems in Metropolitan Toronto, that it hasn't taken into account what's happening here.

I hear you saying clearly, though, if this legislation goes through as it is, first of all, you're in danger of losing a large investment in our whole area, in southwestern Ontario, and obviously then there are a lot of tenants whose homes would be in some jeopardy. Second, it certainly isn't an incentive to you to get into particularly the affordable housing market in the future. Am I right about that?

Mr Howe: I think that's absolutely correct, and the prime focus of our business is affordable housing, whether it's rental or home purchase. That's where we build.

Mrs Boyd: Given the costs of construction, given the costs of actually building even fairly modest apartments, is it really a good investment when you know it's going to be low-cost housing? Are you saying, when you suggest an extension of the housing supplement allowance, that in order to make this an attractive investment for a firm like yours, you have to have an assurance that, even with very modest rental housing you might build, people with very low incomes would have a supplement in order to be able to afford that so you're not losing money?

Mr Howe: I think that there are people out there who do not have the income to pay the cost of providing decent housing, and I can't affect the cost of providing housing. I can't affect the cost of two-by-fours and concrete and land and development charges, nor can I affect the level of income of people who are not employed or who may need government assistance as a result of various disabilities, work-related or otherwise. I have no control over these things.

I'm simply telling you that for them to afford what it costs to build new housing today, they are going to require some assistance, and that assistance should come in the form of a direct subsidy to those people to pay their shelter costs. I think that is a far more efficient way of doing it than any program that is presently in place. The closest one that you have is the one where we provide shelter for

people through the various housing authorities, and we do it on a very cost-effective basis.

Mrs Julia Munro (Durham-York): Thank you very much. Although you have indicated a number of areas that I think are worthy of further questions, I'd like to concentrate on page 6 at the bottom where you have suggested the notion of allowing landlords and tenants to negotiate improvements. Certainly one of the issues that has been raised by those who have presented in other locations has been the fear of there not being a level playing field between landlords and tenants. I just wondered if you have any further comment on this recommendation that would demonstrate how this process would work and alleviate those concerns that there isn't a level playing field.

Mr Howe: I don't understand, I guess, in the sense of running my own business, what that concern is. If a tenant doesn't want to have cosmetic improvements and doesn't want to pay for them, then under the legislation they have the right to say, "No, I'm just going to continue to pay the rent I have." But we have tenants who come to us who say, "You know, I really like the apartment, love the location, but we'd like to have a nice sea-foam, moss-coloured carpet through the apartment, because it matches our decor." Well, the carpet's only five years old. Our program is to replace carpets in the 12- to 15-year age range. We can't afford to do that. But if the tenant said, "I'm going to stay here for 10 years and I'm happy to pay for it," under this legislation I may not be able to do it because of the formula that has a certain cap on it.

I guess what we're dealing with here is the cosmetic issues. If you don't give people the right to make those choices — they are wise consumers, they perhaps are wiser than we all give them credit for. We deal with these people every day. These are our customers. We're concerned that we're unable to meet their desires and that because we can't do those things, they'll say, "Fine, I want to have an apartment with new carpeting and this type of cabinetry and so on, and I'm going to stay here for 10 years because I've sold my home and I'm retiring, and the only way I can get that is to go and buy a condominium."

The Chair: Unfortunately our time has expired, but on behalf of the committee I thank you for taking the time and making your presentation to us this morning.

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LIFE*SPIN

The Chair: I believe Mr Andrew Bolter is here from LIFE*SPIN. Good morning, Mr Bolter.

Mr Andrew Bolter: Good morning. I'm sorry I was a little late.

The Chair: That's all right. We're glad you came.

Mr Bolter: I'm director of community development programs and mediation services at LIFE*SPIN. LIFE*SPIN is a community-based, non-profit organization. We're a front-line clinic dealing directly with London's poor, both the working poor and those on social

assistance. Every day, between 50 and 60 Londoners come to our office or call us because they are struggling to find proper shelter, food, clothing and work, or they're having problems with government bureaucracy and need our advocacy and mediation services. Our clients are in a constant struggle to maintain their own and their families' basic needs. Depending on the situation, we provide information, mediation and advocacy, and we seek to empower low-income Londoners by providing them with the information and tools they need to protect themselves and their families.

We presented a brief at the last hearing in London on September 4 and we do so again, although we question a process whereby presenters are only given a few days' notice that they have been selected to appear before you.

The proposed legislation is a further erosion of the rights of low-income people and will increase the hardship of those who have nothing left over at the end of the month in their struggle to survive.

Some of the highlights of this erosion are: the removal of employment standards; forcing people to work for their welfare cheques; making sole-support parents on social assistance, most of whom are women, borrow both tuition and living expenses for themselves and their families through OSAP; authoring the decimation of the Ontario legal aid plan; mismanagement of the family support plan; defunding of those community agencies that supported low-income folk, particularly women, and especially women's shelters; and setting up a sham tribunal that will not be allowed to interpret legislation to replace the Social Assistance Review Board.

Now we have this attack on shelter. Many studies of health and wellbeing indicate clearly that a decent home is one of the most fundamental building blocks on which we construct the other complex parts of our lives. Its quality and stability are determinants of physical, emotional and mental health, and these are the key to the healthy development of our children. What is the true cost of not having a society where everyone is properly housed?

There is nothing in this draft legislation that's going to increase the amount of decent, affordable rental stock. As you've been told numerous times, the present rent control legislation exempts new housing from rent control for five years, and landlords told you last year that removal of rent control will not induce them to build. There is no indication that this has given any incentive to developers to build affordable rental housing.

This government has abandoned its responsibility to provide affordable public housing. The structural changes you are making to our society will create a huge demand for affordable housing, and we foresee problems ahead. London already has a shortage in this area. I refer you to a study by London Community Services, dated June 1996, which shows that general welfare clients are a vulnerable population in the area of housing affordability. This study found that all general welfare clients, regardless of family size and structure, would have difficulty finding affordable housing in London.

Where are all the psychiatric patients going to live when you shut down the hospitals? Where is the increased number of working poor going to live, given the huge increase in low-paying service sector jobs? Where are those folks who have been forced to sell their homes and live off their assets while being told to look for jobs that aren't out there going to live when they run out of private resources and have to live on welfare?

We analysed this morning the rental ads in today's London Free Press in order to take a snapshot of the rental market in London today. This is what we found:

Looking at unfurnished apartments, duplexes and homes, we found there were 466 units available in the three categories. That sounds great, but we've got to remember that the shelter allowance for a single person on welfare is \$325 a month. There were only six units in this range. The shelter allowance for a couple or a sole-support parent with one child is \$511 a month. There were only 27 units in this range. This represents 0.7% of the available apartments in today's paper. There were no units available for a sole-support family of two children. They would not come close to being able to afford them.

The report that the government commissioned by John Todd of Econalysis Consulting Services for the housing ministry in September 1996 points out that for units with rents below \$600 there are two categories of building. I'm quoting from the report:

"Some will be buildings in very poor condition. The low rents may be a reflection of the condition of the buildings. Tenants in these buildings tend to be those with the lowest incomes and greatest housing affordability problems. They live in these very poor buildings because that is all they can afford.

"Some of these buildings will be ones with chronically depressed rents. That is, although rents are very low, they are in reasonable condition and could be rented for much more. Higher rents are not being charged because the owner has chosen not to take advantage of the rent review system.... The owners of these buildings normally have long waiting lists of tenants who want units. As a result, they can be highly selective in choosing tenants. For this reason, tenants tend to be individuals or small households with secure jobs and adequate income."

Thousands of poor families struggling to live on disability pensions and income assistance are going to face the brunt of your deregulation. These are the ones who live in what I would call slum housing. Where are they going to live?

If you look in the paper too, many of the ads refer to "preferred tenants." They want people who are employed. They want people who are basically not on social assistance, so there's a limit even in what people on social assistance are allowed to apply for.

Under Bill 96, owners of slum housing are going to be granted the ability to increase rents with no control and with no responsibility to comply with outstanding work orders. If you change the Human Rights Code so that landlords can obtain income information as a permitted

practice in selecting tenants, you will exclude whole classes of people. Under Bill 96, the owners of decent, affordable housing will be given the tools to discriminate against "low-income households, a single parent, an unemployed adult or any other type of household that might need a low-rent unit."

Your repeal of the Rental Housing Protection Act is, I think, a big mistake. You've got to allow municipalities the right to protect existing rental stocks and to be able to say to a developer that there must be a percentage of affordable units in every development. That way, you avoid ghettoization. If there's a requirement of a percentage, then low-income units are mixed in with higher-income units. I think it's just generally a better practice.

It's astonishing that you are on one hand telling the municipalities they have to pay a bigger chunk of the cost of providing public services and programs, and yet you are taking away their right to make choices within the community about something so fundamental as housing. He who pays the piper calls the tune. Local decisions can and should be scrutinized by Londoners. We can have a say in how things are done in our community. We can elect our local politicians. We can challenge the city when we think it's not doing the right thing. This is democracy. It's something this government seems to find very inconvenient, but it allows people in the community to decide what's going on in the community.

Your provisions on harassment and these anti-harassment teams or units I think are going to fail miserably. The legislation does not properly address the issue of harassment by a landlord. We know there is going to be harassment because the landlords are going to be tempted to get the tenants out so that they can jack the rents up. Traditionally the poor have been ghettoized, and low-income renters will be extremely vulnerable. We've seen cases in our office of sexual harassment, verbal harassment, damaged cars, malicious and untrue reporting to welfare of fraud, malicious reports to children's aid, and inducements of other tenants to make life miserable. This harassment is being perpetrated: not every landlord, of course, but there are landlords out there who are doing this.

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These are the types of insidious harassment that occur in the real world. The landlord can simply deny having done anything wrong, and any anti-harassment unit would not be of any use. It is an evidentiary problem. We must remember also that many people who are poor are disfranchised and marginalized by poverty. They simply do not complain and they are very easy victims, very easy targets for landlords.

Passing on of costs to tenants: This is going to impact the working poor and those on social assistance. Bill 96 is going to allow landlords to pass on the full costs of property tax hikes and operating cost increases. Given all the downloading that is going on, we know that municipal taxes are going to go up significantly. You're cutting transfer payments, and the costs will have to be covered

locally. It's astonishing that there is no mention of tenants getting a rent reduction if costs go down. So renters are going to foot the bill, and for low-income people it will be devastating.

We have problems with the maintenance and repair provisions. Bill 96 does improve London's ability to enforce property standards bylaws but it also takes away from tenants the tools they can use to ensure their housing is maintained. If the responsibility shifts to the city, how is the city going to pay for it when funding to the city from the province is being decreased? Taxes will have to go up, and of course this increase will flow through to low-income tenants.

Presently a landlord cannot raise the rent until municipal work orders have been completed. These orders have been used to obtain compliance with property standards. Taking away the right of a city to make them is wrong; it's misguided.

Right now a tenant can apply to rent control for a rent reduction due to inadequate maintenance or repair, and the rent officer will investigate to see if other tenants are affected by the lack of repair. In these cases, other tenants are added as parties, so a landlord faces multiple rent reductions until the repair is made. This provision is gone in the new legislation. This removes the stick of cost consequences if a landlord chooses not to comply with standards.

We urge you not to get rid of rent control. We urge you, as a government, to recognize your responsibility to provide adequate housing for every citizen in this province. I think you'll find that if you look at the true external costs of poverty and inadequate housing, that is probably the best investment a government can make. Thank you very much.

The Chair: Thank you, Mr Bolter. We have time for perhaps a question from each of the three caucuses.

Mrs Boyd: Thank you very much, Andrew, for your presentation. It's very helpful to have such up-to-date figures on what the reality is in London and to have an acknowledgement that, as the previous speaker said, there are landlords who are charging far below what they could. We know that is the case.

I gather from your discussion that the legislation as it stands now, the current rent control legislation that provides for maintenance orders and so on, is what you would like to have maintained. You wouldn't like to go back to what the Liberals had between 1986 and the end of their term, which basically didn't have any ceilings and allowed all of the improvements. Is that quite clear?

Mr Bolter: Like any system, it's not perfect, but it's far better than what's being proposed. Absolutely.

Mrs Boyd: Your real issue is that the balance of power gets really skewed in favour of landlords, and when the landlord is a bad landlord — and all aren't — then what this really does is make things that much more difficult for low-income families.

Mr Bolter: I think with an effective balance of power, it's fine for people with incomes, with money, because

they can move. But when you're low-income and you're living in an apartment and you know if you move you're subject to rent decontrol, you almost become trapped in your low-rent apartment.

Mr Gilchrist: Thank you very much, Mr Bolter. It's good to see you again.

I'm seized by what could only be considered a very pessimistic outlook on life in your report, and I guess I've got some other numbers to throw back at you. The vacancy rate in London between 1995 and 1996 increased from 4.3% to 6%. That means one out of every 16 apartments in this city is sitting empty. At the same time, from 1995 to 1996, the average rent, according to CMHC, went up \$3. That's \$15 under what even the guideline allowed, and it's certainly \$12 under inflation alone.

You mention in your own report that there are 27 units, for example, available for couples or sole-support parents. Well, obviously — I won't say obviously. How many units does a person need? If in fact there are 27 units today sitting empty in the city of London, then tell me why we have a problem if somebody is out looking for an apartment. Do you not think 27 is adequate choice for someone to select from?

Mr Bolter: No.

Mr Gilchrist: You don't. How many choices should somebody have?

Mr Bolter: There are far more than 27 people, or families, looking for low-income apartments in this city.

Mr Gilchrist: How can there be when there are 27 units sitting empty?

Mr Bolter: There's a lot of poverty in this society. There aren't just 27 poor people in London. I should further add that, out of those 27, a lot of them have preferred tenant requirements. People on social assistance aren't even allowed in the front door of the landlord's house to try and rent the apartment. So I think you're throwing figures around that are totally incorrect.

Mr Gilchrist: Thank you.

Mr Bolter: You must remember, too, if I may finish, that the figures you threw out about the vacancy rate in this city, you're just looking at the general vacancy rate, which includes all levels of apartment. I'm focusing here on the lower end, and there are no vacancies.

Mr Duncan: I'd just like to take you back to that argument and allow you to expound. I guess the 22% cut in welfare over the same period of time that we're referring to in terms of the \$3 increase in rents — I wonder, do you know what figures are available from the local housing authority with respect to waiting lists for public housing?

Mr Bolter: Oh, yes. I believe there is quite a waiting list. There's a recent report, 1996, by the city, Jennifer Kirkham's report, which I have somewhere here, which I think refers —

Mr Duncan: But you do have a substantial waiting list of people who have been assessed, had their point assessment between \$800 and \$1,000?

Mr Bolter: Absolutely. It's a very big list.

Mr Duncan: These I would presume are similar to other communities: families as well as singles, seniors and others who simply cannot access affordable housing.

Mr Bolter: Exactly.

Mr Duncan: The government's argument is that this bill will increase supply. Our belief is it will increase supply at the upper end, it will not increase supply at the lower end, and that coupled with their changes to welfare rates as well as their complete abandonment of non-profit housing, will create a crisis at the lower end. The type of people who you deal with on a daily basis, in your view, will have a more difficult time maintaining and obtaining new rental accommodation?

Mr Bolter: Absolutely.

The Chair: Mr Bolter, unfortunately our time has expired. We thank you again for coming this morning.

NEIGHBOURHOOD LEGAL SERVICES

The Chair: The next presenter is Cynthia Harper of Neighbourhood Legal Services. Good morning, Ms Harper. You may proceed.

Ms Cynthia Harper: Thank you. I'm Cynthia Harper. I am the executive director at Neighbourhood Legal Services in London.

Neighbourhood Legal Services is a community legal clinic. We are funded by the Ontario legal aid plan to service low-income clients in the city of London as well as the county of Middlesex. We provide representation and information to clients. We provide community development, public legal education, and are mandated to ensure that our government is responsive to the legal welfare of the clients we serve. In 1995 we provided assistance to over 2,000 tenants. That has increased in 1996. We provide representation in the area of landlord and tenant matters and rent control, and we also deal with co-op housing.

During these hearings I'm sure you've heard many of the concerns of tenants and community groups about the dramatic effect this legislation is going to have on the 3.5 million tenants in Ontario. We share those concerns. We are certainly in support of the submissions that you received from LIFE*SPIN already, from the Coalition to Protect Tenants' Rights, and other groups.

1040

What I would like to do today is focus on one main issue: the issue of the tribunal that is being set up through this legislation. As you know, the Ontario Rental Housing Tribunal is now going to adjudicate both landlord and tenant matters and rent control matters.

It is our position, first, that we would like to see landlord and tenant matters remain in the court system for a variety of reasons. However, we would like to address the issue of the tribunal and perhaps suggest to you some amendments that could be made with respect to that proposal.

First of all, simply transferring the matters to an administrative tribunal does not necessarily meet the goals

that were set out in the discussion paper last year. Those goals were stated to be to ensure efficient and fair decisions; to secure a high standard of procedural fairness; to reduce costs and administrative complexity through a one-window access.

The new tribunal must provide justice not only to tenants but also to landlords. It must overcome some of the objective barriers that existed with the court system and it must reduce delays, complexity and costs. It must ensure that there are natural justice and procedural fairness rules that are followed, and the following are our specific recommendations.

First of all with respect to the composition of the tribunal, we do agree that members of the tribunal should be appointed by the Lieutenant Governor in Council. However, we wish to point out that it's imperative that the appointments to the tribunal and the appointment process itself be of high quality. With the court system now, we are assured of that through the judicial appointment system. We must guarantee the tribunal is seen to have credibility in the eyes of landlords and tenants and the public as well. The appointments should be made through a procedure that is much like the judicial appointment procedure, where the selection process is fair, open and impartial. There is no room on this tribunal or any other tribunal for purely political appointments. There should be a selection committee. There should be selection criteria set out.

We respectfully request that you consider that this tribunal must be well-funded. It must have the funding to enable it to overcome delays which may exist in the current rent control system or previous tribunal systems. As well, it's crucial that any tribunal member have ongoing training, and there should be a sufficient budget for this. This tribunal is now dealing with housing matters which will include evictions and other matters that are now before the courts. It's going to have an administrative duty where rent control now is dealing with rent increases, maintenance cost increases and that sort of thing; and in addition, with the care home provisions, it is now dealing with a very specific area that is going to affect many vulnerable tenants.

As you know, the legislation provides under section 93 that landlords may apply to the tribunal for an order transferring a tenant out of a care home and evicting the tenant if the tenant no longer requires the level of care provided by the landlord, or the tenant requires a level of care that the landlord is not able to provide, and there must be appropriate accommodation in another location.

So this is a whole new area that this tribunal is now going to deal with that is of concern to us. There are many questions. For example, how will we determine what acceptable alternative accommodation is? How will the tribunal determine what the needs of this tenant are? These are health care issues that this tribunal is now going to be dealing with.

As I have mentioned, this tribunal is going to have broad decision-making powers. It must have the jurisdiction and capacity to deal with all these issues, and we're

suggesting that it should have the capacity to deal with charter issues. It needs to have the power to grant interim relief, which is now ordered by the courts, it needs to be able to provide injunctive relief and it must be able to deal with matters on an emergency basis. For example, we experience situations where a tenant calls us and he has been illegally evicted by the landlord. Given that situation, we can apply to the courts for an injunction in a very short time delay to have that tenant put back in. It's going to be crucial that this tribunal can deal with those sorts of issues.

Along with these procedural issues, I'd just like to point out that there are many substantive changes with respect to the security of tenure. One example that came to my mind was when I was reading the sections in this act that are similar to section 121(3) of the Landlord and Tenant Act, where a "judge shall refuse" an application if certain conditions exist. One, for example, is that the judge must refuse the application if he or she is satisfied that a reason for the application being brought is that the tenant has complained to a government authority, or a reason for the application being brought is that the tenant has attempted to secure or enforce their legal rights. That section still remains. However, the word "a" has been changed to the word "the." By simply changing one word, we are changing much of that section, and it is reducing a lot of the protections that were afforded to tenants in that section. Even with the word "a," we are able to show many times there are many reasons for a landlord wanting a tenant out, and this may be one of the reasons. By changing this to "the," it becomes that the primary reason for this landlord wanting to evict is that the tenant has belonged to an association or attempted to enforce their legal rights.

The rules and guidelines of this tribunal should be simple, clear and they should be made public. You are going to have many unrepresented tenants and landlords at this tribunal. It's important that they know what the procedure is and there needs to be an equal footing by everyone being informed as to what the procedure and policies are.

In addition, this tribunal is going to have the function of informing landlords and tenants of their rights and obligations. We agree with that section and we would ask you to consider the many needs that tenants have. Information must be in plain, simple language, it must be widely distributed and it must be information not only on what the law is but on what the procedures are before the tribunal and how access may be had to this tribunal.

One section that is of particular concern to us at Neighbourhood Legal Services is the section dealing with costs and fees of the tribunal. We stress that any costs and fees must be minimal. Right now, with the Landlord and Tenant Act, there is a reduced tariff for landlord and tenant matters. For example, when a landlord wants to bring an application or a tenant wants to bring an application, it's a \$45 charge. This is substantially less than most matters before the Ontario Court (General Division). However, we have seen that there has been an increase in fees and there has been an increase in the things the courts

are now charging for, so we're now in a situation where it costs a landlord \$45 to file an application, but if a tenant somehow receives a default order against them where they weren't able to show up for a hearing for some reason and now there's been an order, if we would like to bring a motion to set that aside, we have to pay \$75.

Many of these are arrears cases where the tenants are struggling to come up with the money to pay the landlord, and we have had many people say to us, "We can't afford \$75 to go in and have a judge decide whether or not this judgement should have been issued in the first place." We strongly suggest that while there is a cost recovery component, you keep in mind that these fees must be low, because if they're high, even \$75, they act as a barrier for access to justice.

In addition, the same comments apply to costs. In landlord and tenant matters, while costs are awarded, they are normally a lot lower than what would be awarded in most other matters, and we ask that this remain the same with the tribunal.

One of the concerns we have about the tribunal is that they are going to be dealing with a huge caseload. We would like to ensure that justice is done, but in the haste to have all these cases heard, that tenants and landlords are given ample opportunity to present their cases. As you can imagine, in many cases, even with the relaxed rules of evidence, a hearing may take one hour, two hours or three hours on what may appear to be a simple eviction matter on the face of it. I have done cases where I have spent the day in court disputing applications for evictions when we've had a number of witnesses on both sides, and the tribunal is going to have to deal with that.

I'm glad to see there are going to be forms that are set up for tenants and landlords to use. We would ask that forms be set up for disputes. Currently under the system there is no form for a dispute. In fact, a tenant may simply attend at the registrar's hearing, say, "I dispute," and have the matter heard before a judge. We would ask that the forms be simple, easy to read and readily available to all landlords and tenants.

1050

One of the concerns we have with the whole dispute issue is that currently tenants may just simply attend and they do not need to file a written dispute, but now they must file a written dispute. This is an additional barrier to tenants who cannot read, cannot write. We have people coming in saying, "I don't know what a dispute is, much less how to write it down." We ask you to keep in mind that you are reducing, again, the ability of people to simply attend to present their cases.

The other concern we have about disputes is that there is now a five-day time limit for attendance to file disputes. This may not give tenants a lot of time to seek legal advice and prepare their documents and then actually have the documents filed with the tribunal.

This legislation is providing for mediation. Mediation can be a very valuable tool in resolving cases. However, we have some concerns about how mediation is going to

be conducted. If there is a mediation process, it must be voluntary. There must be no prejudicial effects to a tenant for not participating in mediation. Again, there must be proper training of the mediators, they must be well informed about landlord and tenant matters as well as mediation processes and there must be sufficient time for mediation.

I know in the court system, for example in Toronto, there is a mediation system, but it's a system whereby tenants are lined up trying to get in to have a hearing. The judge says, "Everyone go to mediation." They're lined up at the mediation service; they're given five or 10 minutes to try and have the case mediated. If it's not mediated, they go back to the judge. That, in my opinion, is not proper mediation where things can be resolved in a fashion that is in everyone's best interests.

One of the other concerns we have is with respect to section 172, which talks about money paid to the tribunal. This appears to be much larger than the provision in the Landlord and Tenant Act. We wish to stress that as it stands now, tenants have the right to withhold their rent. Under the act now they must then pay it into court under certain circumstances. But we stress that this right needs to be maintained. That is a contractual right and it is very effective at times in having matters resolved without having to go to court.

The other concern we have is with respect to default orders. A default order may be issued when a tenant does not file a dispute. As it stands now, a tenant has the opportunity to bring a motion to set aside a default order and to have a trial in front of the judge. There is a time limit for that. The time starts to tick once the tenant has been actually served with the order. They're served with the order, they become aware that it's there and then they can bring a motion. In the Tenant Protection Act they have 10 days to bring a motion after the order is issued. This is a huge difference. The tenant may not even know that the order was issued and the clock is starting to tick. We suggest that be changed to say that they have 10 days after they're served with the order to bring motions to the tribunal.

Also with respect to default orders, the Tenant Protection Act now provides that if there is a verbal agreement to terminate, the landlord may enforce that by simply attending at the tribunal and filing materials. As it stands now, if there's a written agreement to terminate, there may be an enforcement mechanism. We have grave concerns that this could be open to abuse. I see situations where, for example, a tenant says to me, "The landlord told me to go and I left and therefore I'm out of my league." The landlord says, "No, no, I told you that you could go if you liked, but I still meant that you need to provide me with the proper notice." There's confusion as to whether we even had an agreement at all that there would be any termination of the tenancy.

Last, I'd like to point out, along the lines of access to justice, that if this tribunal is going to provide access to justice, it must be available in a location that landlords

and tenants can go to. In the court system we have right now the courts are available regionally. We have concerns that you have the tribunal in locations that people may actually attend and access.

In closing, it's crucial that adequate funding be provided to this dispute resolution system if it's going to meet the goals you have stated. It must provide justice to both landlords and tenants. We ask that you not rush the implementation of the system. This is going to be a huge change in the way things are done and it needs careful planning, it needs policy development and it needs staff training.

The Chair: There is time for one question from the committee. I will give that first to the government side and then, as the day progresses, when that occurs again we'll go to the Liberals and the New Democratic Party.

Mr Wayne Wettlaufer (Kitchener): Ms Harper, I'd like to comment on an opening statement you made, "We also provide public legal education and perform community development." Could you give an example or tell us what percentage of the funding you receive from the government would go to public legal education and community development?

Ms Harper: It's difficult for me to tell. We receive 100% of our funding from the Ontario legal aid plan and we are mandated to carry out these functions. It's hard to say how much time we actually spend on public legal education. It varies. For example, with changes in legislation we spend a lot of time speaking to groups about what the changes are and educating them about their rights and obligations. It varies with the demand. I would say we're probably spending 20% at times providing education in all areas, not just landlord and tenant.

Mr Wettlaufer: The root cause of poverty would be unemployment. Would you agree with that statement?

Ms Harper: No, I wouldn't. I think there are many causes of poverty. I would say unemployment is one of them.

Mr Wettlaufer: Would it be the big one?

Ms Harper: If people cannot find jobs, it's difficult. There are people on disability; there are many reasons why people are in poverty.

Mr Wettlaufer: What our government has been trying to do is to create an environment in which there would be a lot more jobs. We see through many columns in the newspapers that companies have much more confidence today in the economy in this province than they have had at any time over the last 15 or 20 years.

We see constantly that house permits are up; non-residential construction permits are up; automobile companies are reinvesting or putting new plants into the province; we had a notice last week that automakers are investing \$1.8 billion in Canada this year, most of that being in Ontario. Jobs follow naturally. They do this in time of expansion. It is not our government's position to perpetuate poverty, yet at times I see from some of the presentations that are being made here that some people making presentations have a vested interest in perpetuating poverty. I wonder —

Ms Harper: I wouldn't agree with that.

Mr Wettlaufer: You wouldn't?

Ms Harper: No, I wouldn't.

Mr Wettlaufer: You don't think your legal aid clinic has a vested interest in that?

Ms Harper: In perpetuating poverty? No. Day to day I spend my day trying to fight legislation that may cause people to have more hardships when they're in poverty.

The Chair: Unfortunately, we're out of time.

Interruption.

The Chair: The Legislative Assembly does not permit demonstrations, applause or boos or any sort of demonstration. In future, I would ask that the audience respect that in this committee as well.

The next presenter is —

Mrs Boyd: On a point of order, Mr Chair: I'm quite confused. Normally in Legislative Assembly committees, if there is time for questioning, there is equal time for each party to ask questions. I'm curious why you allowed Mr Wettlaufer to make a commercial announcement on behalf of the government and did not permit the other two parties to ask a question of this speaker. This is not an appropriate process for a legislative committee.

The Chair: The practice I've been following is that when there is not time for all three to participate, I give it to one of the parties. It happened to have been the Conservatives' turn. As I indicated at the outset, the next time that occurred, it would go to the Liberals and the time after that it would go to the New Democratic caucus. That's the practice. If the committee doesn't like that, then we will ask no questions to those particular presenters. I have felt that is the fairest considering the time that's left to ask presenters questions.

Mrs Boyd: Did you happen to time Mr Wettlaufer?

The Chair: Yes, I did.

Mrs Boyd: That's good, because we will expect to have a similar time.

1100

PERSONS UNITED FOR SELF-HELP

The Chair: The next presenters are Persons United for Self-Help, Bonnie Quesnel and Robert Sexsmith. Good morning. You may proceed when ready.

Ms Bonnie Quesnel: Thank you for the opportunity to speak to you about Bill 96, the Tenant Protection Act. Panel members may ask why we think this bill is so important and why it will have a dramatic impact on people with disabilities. I'm sure that when writing this bill we were not first and foremost on the minds of policymakers, but you strike dramatically at those of us at the bottom rung of the social ladder without intending to.

People with disabilities will be dramatically affected, because we are tenants. We are often unemployed or underemployed. We are recipients of social assistance. We are often without proper representation or advice. We are often without housing options or alternatives. We are the tenants you forgot to protect.

In particular, Bill 96 failed when it changed rent controls and when it changed the law affecting care homes. I would like to take this opportunity to expand upon these areas of concern.

Income information: Section 200 of Bill 96 is contrary to current human rights legislation and allows for the discriminatory use of income information. It would be legal to discriminate against groups on social assistance such as groups of people with disabilities. It takes away protections we currently have and gives more power to positions already powerful, like the landlord. The chief commissioner of the Human Rights Commission told you that this section should be removed and we urge you to listen to him. Don't take away the protections we currently have.

Such measures allow one more door to affordable housing to close because of minimum income criteria. We will be forced to live in an overpriced, low-quality accommodation. Landlords and communities that believe we do not belong and that we devalue their property are sentencing us to boarding-homes. Boarding-homes will gouge our pocketbooks. We will end up in crime-ridden areas where no one else wants to live, in non-profit housing projects on the outskirts of the cities and ghettos for people society does not value. In our own city of London, you will be creating institutions within the community. We will be kept out of certain sections and areas of the city and segregated because of the discrimination allowed. The irony is that while one ministry closes our city's psychiatric institutions, another ministry provides us with fewer community housing options. Where is it you would like people with disabilities to live? My understanding is that Aylmer is only so big.

Yes, it is fair to ask if we pay our bills and have a good credit rating, but after that there is no need to go any further. If we have paid our bills in the past, give us choice and give us control. Specific housing may be worth more to a person with a disability than it is to you. Safety may be a bigger concern because of our limited mobility. Friends and family living nearby may be a priority. Access to shopping and amenities may be worth paying extra for, since public transportation for us is not the same as it is for you. Trust us. We will pay for what we need and we'll choose wisely. Few people with disabilities have money to throw away. When you take away from our limited options and choices, we are forced to choose expensive housing from unscrupulous landlords.

Another concern is that we do not have enough accessible housing stock within this province. Therefore, any increase in accessible housing will be new housing and unprotected by rent controls. Our housing will be unaffordable. "Accessible" will become inaccessible to us.

We applaud your effort to protect and ensure that the number of care homes is not reduced. We feel that protection for tenants during renovation is not strong enough and must be monitored.

We are concerned and would like to discuss areas where individuals with disabilities lose their rights as

tenants and lose their protection under the Residents' Rights Act, Bill 120. In particular, we are concerned that long-term tenants living in their home may be excluded from protections because of the expanded exemption rules. It is not hard to imagine some landlords using these expanded exemptions for their own benefit and denying individuals their right to tenant protections. The exemption should be limited to premises in which the sole purpose is rehabilitative and should remain fixed at six months.

We are also concerned that future types of accommodations can be added as exemptions later on through regulations. This is frightening to us and leaves us out there with less than the rest of you. At any time, you can change the rules. Our lives and our homes can be altered without so much as a "how do you do." Would this happen to any other members of society? I think not. But then again it was the disabled who boarded a bus in Toronto headed for Aylmer. Where and who is providing the leadership in this province when it comes to speaking up for the most vulnerable? I did not see it in Aylmer, and I do not see it in this bill. And I do not see why you as a government should be trusted to change regulations without a watchdog. Any changes regarding exemptions should be dealt with through the legislative process and not by back-room bureaucrats.

I would like to address our major issue regarding termination of tenancy applied to people with disabilities in care homes. The new grounds for eviction, or "transfer," as you call it, can include that the tenant no longer requires the level of care provided by the landlord or that the tenant requires a level of care that the landlord is no longer able to provide.

When the landlord applies for a transfer, the tribunal makes the determination. The legislation eliminates the fundamental landlord and tenant protection for tenants living in care homes. Again tenant and service issues are being wrapped up together and we are not provided with the same rights and protections of others.

We will not live where it is unsafe. This paternalistic attitude is a sham and a spin doctor's invention. The benefactor of this section is the government and community care providers. They can just pass their people's problems on to the tribunal. Will the service provider be accountable for their inability to meet the needs of the individuals? Will the government be accountable for the lack of funding to community service to meet the needs of individuals? Can the tribunal and the landlord force an individual into an institution by taking them from their home? Will tenants be given legal counsel through this process, and who will pay? The right to transfer people is illegal and unethical and does not belong within Bill 96 or any housing legislation.

Another side-effect of Bill 96 is that it keeps people in their place. The threatening power of the service provider as landlord is re-established. The people who complain or speak up for his or her rights are placing themselves at risk. The unwritten rule is that troublemakers may get evicted or transferred, thus increasing the sense of vulnerability.

Look again at the pages of our local newspapers, where individuals from Toronto were afraid to give their names or have their picture taken for fear of being labelled a troublemaker. You do not know this fear. You find it hard to believe it's there. It was not your intention to create it, but it is part of this bill. By giving the service provider the expanded power to evict, you have increased the vulnerability of the individual. You have protected the powerful, and this is called the Tenant Protection Act. I just don't see the protection in the Tenant Protection Act.

Instead, all we see is the nightmare of boarding-homes. You fear them in your neighbourhood. We fear being forced to live in them. This bill hastens that possibility and increases the probability that vulnerable groups will be pushed, cornered, into the boarding-homes and housing ghettos. Don't let this happen. We have much to contribute to the community and your neighbourhoods and should not be pushed away. It is my hope that, closing with the following words, I can awaken this government to how frightening and scary a world it has become for those of us with disabilities.

Welcome to a boarding home in Aylmer
Such a lovely place, such a lovely place
Welcome to a boarding home in Aylmer
You will find us here any time of year
There are dark, lonely stairways
There are flickering lights
You know we all are victims
Of the landlords' limitless rights
So now we sit on the sidelines
Until a brand new day
When our voices will matter
Then we'll have our say.

Mr Robert Sexsmith: My name is Robert Sexsmith. Bonnie and I share many of the concerns for our neighbours and how they are being affected by the fundamental changes to their lives by government decisions. Changes have been and continue to be necessary to provide fundamental protection for people who, because of economics, cannot purchase a home.

It seems to me that relatively little research has been conducted to identify the issues underlying the means of overcoming marketplace inequities in housing. There are provable linkages which exist between housing, health, immigration, child poverty, social and family disruption. Too many citizens have incomes that do not allow them to compete in the marketplace either for rental housing or for home ownership. These households are in desperate need of housing which they can afford and will give them security of tenure.

I would witness the consequences of the income information. This will not only affect those on social assistance but will affect many and any wage earners, senior adults who wish to sell their homes and move to an apartment, or those who have taken early retirement because of downsizing from employers.

1110

Changes in definitions, some formerly applied and some new definitions, will have new and possibly unexpected impacts. For example, to change "tenant" to refer to who pays instead of "occupant" denies others in the household. "Residential premises" could preclude use of services and facilities such as parking, pools or a tenant's front door. The loss of a defined meaning of "spouse" denies the real world of living arrangements of people.

You should know that 47% of Londoners are tenants and that landlords usually implement the annual allowed increases when renewing or rewriting new leases. The new units' permanent exemption will not increase rental accommodation. There are primary reasons for that, but the main one is that the treatment of shelter as a commodity puts housing beyond the reach of too many people. I went into some detail in the presentation about using the 30 percentile and the income required to rent an affordable unit in London.

In London the utilization of emergency shelters has increased substantially since 1993, by 28%. The Tenant Protection Act is housing policy, and it is much more about the management of the existing housing than it is about anything else. Given this government's concern for personal taxes of individuals, why would you ignore the second-greatest percentage of total expenditure by urban families and individuals, called shelter?

I have listed a number of specific concerns. Rather than try to read them all in the time — I'd like to allow time for some questions — I would ask that they be included even though they are not read, and I would answer questions specifically on them.

The Chair: Mr Sexsmith, the written presentation you've given to us has been made available to all members of the committee and forms part of the record of the committee.

Mr Sexsmith: In the interests of time, rather than trying to read them all out loud, I thought it would be easier to answer a couple of questions.

The Chair: We have a few minutes for a question from each caucus.

Mr Duncan: Thank you for your presentation. Your reference to part IV of the act has been brought up in a number of hearings throughout the province. I want to explore it a little more with you, the notion of the landlord and the service provider being one and the same and the problems with that, particularly from a harassment perspective, a fear perspective.

I take it you're familiar with the Lightman report that was done some years ago. Could you expound on what Mr Lightman recommended with respect to the relationship between a tenancy and service provider and landlord and service provider?

Ms Quesnel: You mean about the tenants having their own protection, and therefore separate from the service they are given?

Mr Duncan: That's correct.

The Chair: We have to move on to the NDP.

Mrs Boyd: Let's continue with that. The whole purpose of Professor Lightman's report was to look at what is happening to people in these unlicensed, unregulated situations. It was his very strong recommendation, as you have recommended, that the service needs of people be completely separate from their rights as tenants so that you not have a double jeopardy situation.

Ms Quesnel: That's right, very much so.

Mrs Boyd: You've been very eloquent about the very immediate problem of the folks who were arbitrarily moved from Toronto to Aylmer. That's of real concern, I know, to the community. I had probably more phone calls on this issue in my constituency office than almost any other with respect to this act. There's real concern now that people actually see how vulnerable people are to that kind of arbitrary action.

Mrs Munro: Thank you very much. I know the time is very brief. I want to ask two very specific questions. The first one relates to the presentation given by Mr Sexsmith. On page 9, you say that care homes would be better regulated under community health care. Are you referring there to the community care access?

Mr Sexsmith: Yes.

Mrs Munro: It's my understanding that that is in fact their mandate.

Mr Sexsmith: Not when it's included here. It's very specific right now under the TPA that there's going to be this component. I really don't understand why it's included under the TPA.

Mrs Munro: I just want to assure you that the community care access does take precedence in this particular kind of issue.

Mr Sexsmith: Will that be communicated to the landlord?

Mrs Munro: Absolutely. They will have that understanding, that that is the legal position of the community care access. I want to assure you of that.

The Chair: Mr Sexsmith, Ms Quesnel, we are out of time, unfortunately. It's too bad we couldn't have more time, but we've run out. Thank you for coming.

1120

BILL ARMSTRONG

The Chair: The next presenter is Bill Armstrong, councillor of the city of London. Good morning, sir. You may proceed.

Mr Bill Armstrong: Good morning. First of all, I was supposed to have a co-presenter, but she'll be presenting this afternoon, so unfortunately my presentation won't be as long as I would have liked, but that will give you an opportunity, I hope, to ask some questions.

I guess the reason I'm here this morning is that I've had extensive experience with rent controls going back to 1985. From 1985 to about 1993, I represented tenants in front of the rent control here in London, mainly in the area of illegal rents, but I also handled full building reviews, and I would estimate probably handled close to a few

thousand cases under the Rent Control Act and the Residential Tenancies Act, its predecessor. From 1993 to today, I handle both rent control issues and landlord-and-tenant issues in front of the Rent Control Board and in front of the courts. So I feel I have quite a bit of experience and knowledge of the rental situation in London.

I recently had an opportunity to participate in a forum here in London where we listened to the concerns of tenants about this particular bill that's being proposed. One of my concerns and one of the concerns I heard from tenants here in London was the fact that there would be no more rent controls, and it's my belief that in fact that's what this bill proposes. With this bill, each time a tenant moves out and another tenant moves in, it's my belief that landlords will take that opportunity to go to the maximum possible rent that they can get for those units.

What this will create is inequity. You will have tenants moving into buildings paying perhaps as much in this municipality as \$100, \$150 more for a unit than down the hall another tenant is paying much less for. This will obviously create some real concerns when tenants realize they're paying so much more for a unit than their neighbour.

The other area I have a concern with is that this bill is going to create a situation where unscrupulous landlords are going to be acquiring buildings where the rents have been historically lower than perhaps they could have been because of controls. These landlords are going to take advantage of every opportunity to encourage tenants to move out of their units, and of course out of the building, so that they can go to the maximum possible rent. I hate to use an example, but I feel that this will be like a New York scenario where people are going to again harass tenants for profit. That's what's going to happen with this proposal.

Another area I had concerns with was poor maintenance. As you are aware, where a landlord hasn't been maintaining a unit properly, rents could be withheld so that the landlord would comply with work orders. I think that system works well. Not having that system will discourage many landlords from maintaining the buildings to the standards that they should be.

Again, a rent registry: Obviously, there won't be a need for a rent registry if there's no rent control. I think the rent registry worked well. It made the information available to tenants so they could make sure they were paying legal rents. I did have some problem when the registry was changed so that — back I believe it was 1985 when the registry came into existence, I did have some problem that a lot of illegal rents were made legal. I was concerned about that happening back then and I thought I would mention that today.

The use of an administrative tribunal and taking matters in front of a tribunal rather than the courts I see as a step that may be positive. That's one of the only things, from my reading, I can see will be a positive step with regard to these proposed changes. This might make it easier for tenants to represent themselves to do with landlord-and-tenant issues. I also support the idea of a media-

tion process or mediation service. Again, obviously, mediation is a route that would make it easier for both parties to resolve their differences.

Those are all my comments for now. I'd be happy to entertain questions.

Mrs Boyd: Thank you very much, Bill. I know that our mayor was one of the mayors who went yesterday to Toronto to talk to the Premier about the issue of the download and the effect of that on property taxes. Throughout these hearings, there has been a claim by the government that the Who Does What kinds of actions that the government is taking will make it possible for property taxes to actually go down on rental units and that, therefore, it will be an incentive for landlords not to charge as high a rent as they might otherwise, and also possibly to build new buildings. Can you comment on your sense, as a councillor and as someone who is familiar with rentals, on what the effect of the download is likely to be and whether you think that will in fact improve the position of landlords who are willing to provide lower-cost housing?

Mr Armstrong: My experience has been that, first of all, landlords, if given an opportunity, always charge the maximum possible rent available for the unit. Again, with the downloading, obviously there'll be additional costs, overhead to apartment buildings, and I have no doubt that those costs, whether it be through increased taxes or whatever area those costs may come from, will be passed on to the tenant. This is a business and landlords are in the business to make money and to maximize profit. Again, that's what troubles me with the idea of taking off rent controls. I don't believe this will suddenly create a huge number of new units, and certainly taking off controls the way that you're proposing will eliminate a lot of affordable units very quickly. As I mentioned earlier, the inequity in one tenant paying a huge amount of money more for the identical unit, I can just see where that's going to create some real problems.

Mrs Boyd: Can I ask you, as a councillor, the analysis that the staff of our city council has done has been very clear that we have two choices under the download, either increased property taxes or drastically lowered services, which people would then have to purchase probably privately. In either case scenario, if this download goes ahead, would you see this as being simply passed on to tenants, under those circumstances, whether it's property taxes or whether it's — for example, if in order to keep taxes without rising, if the government refuses to let you raise your taxes, then you'd have to lower services. People would then have to purchase those services. Am I correct on that?

Mr Armstrong: That's correct. In either case scenario I would be of the belief that those increases will be passed on to tenants. There's no doubt in my mind that will happen. Again, if in fact the scenarios that have been set out to go — there has quite frankly been no information. It's hard to comment on something because there's a lack of information we've received. We don't really know what the future will unfold.

Mr Gilchrist: Thank you for your presentation. I suspect the membership in the flat-earth society is growing exponentially. The numbers were released, August 7. Your municipality was told precisely to the penny what the worst-case scenario would be, and as your mayor herself was told again yesterday by the Premier, no tax hike. London will not be going up.

In fact, as you are well aware if you read those numbers, depending on what the municipalities tell us, not the other way around, on how they would like the education tax to be set, either 50% of your current tax or an average of 50% of all current taxes across the province, the entire county could drop \$2.9 million on day one. But let's leave that issue aside, because Ms Boyd was trying to cloud the issue to some extent by asking about what would happen if there was a tax increase or a decrease.

The issue I would put to you, Mr Armstrong, is that right now there is an imbalance in the taxation between single-family homes and apartments, and it doesn't matter if that differential continues to move up or down, it still exists, and in this community, you and your fellow councillors have perpetuated a system where apartments are paying over two times as much as they would if they were single-family homes.

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Would you not agree with me that if rolling those property taxes back to fairness drops, on average, every apartment in London by \$600 a year or more, \$50 a month, that would have a dramatic increase on the affordability, particularly in entry level apartments in London?

Mr Armstrong: The thing is, and I won't debate you today —

Mr Gilchrist: I'm not surprised we don't get any straight answers to our questions.

Mr Armstrong: I always try to give straight answers to real questions. But I guess the fact is I'm here today to speak on this act and what your proposals are here.

I don't see this as the Tenant Protection Act, far from it. I see rents going up. I see affordable housing disappearing very quickly. Again, I really think you're going to need an anti-harassment unit. The fact that you would even suggest that you need an anti-harassment unit suggests to me that you already are aware of the possible implication of landlords raising rents and evicting tenants so that they can raise low rents and increase their profit margin, increase the value of their properties. It seems if you can't see that —

Mr Gilchrist: Is it your submission that the current act today is perfect? Are you're telling us that under the current act we don't have waiting lists; under the current act, there isn't harassment; under the current act, there aren't people being discriminated against? Is that what you're sitting here telling us today?

Mr Armstrong: I've not only dealt with this act, I've dealt with its predecessor and I've dealt with its predecessor, which was I believe administered by your government

many years ago. I'm suggesting to you that harassment has always gone on, but I'm suggesting that —

Mr Gilchrist: Precisely, and that's why we think it's a step forward to have an anti-harassment unit.

Mr Armstrong: I think you're setting the stage where there's going to be far more harassment go on in this province.

Mr Gilchrist: We disagree.

Mr Armstrong: I'm sure that down the road, we'll be able to measure that by the number of evictions that are going to be proceeding across the province. But obviously, the fact that you need an anti-harassment unit speaks for itself.

Mr Gilchrist: As another protection for tenants, I hope you take the tools available, deliver to tenants not rhetoric this fall but give them the \$60 per month, \$50 per month reduction that is their right, that is their due and start bringing fairness back to property taxation in London as across all the rest —

Mr Armstrong: That will never happen.

Mr Gilchrist: It will never happen? Well, there's an admission for you.

Mr Armstrong: Not under this act.

Mr Gilchrist: The power is in your hands, sir, to do that.

The Chair: We'll move on to Mr Duncan.

Mr Duncan: Thank you, Councillor Armstrong, for your presentation. Just a couple of brief points. The numbers that were released this month are the third set of numbers the province has released, and virtually everything they did in January in terms of the download has been changed in a dramatic fashion, because the numbers they gave out then were wrong, and we would submit these numbers are wrong. That's what municipality after municipality is continuing to say.

The province could have dealt with the apartment issue and they chose not to. They chose to leave it to you, because the kind of bullying you've just seen is part of government policy. They've been very effective, as I'm sure you know as a municipal councillor, I'm sure school board people know right across the province. They put you into an untenable position and they say, "Don't raise taxes; cut taxes," knowing full well that won't happen. I would suggest that the arguments that Mr Gilchrist has put forward are wrong. The numbers are wrong and have no credibility because your own numbers —

Mr Gilchrist: So these numbers are wrong also.

Mr Duncan: I would submit the mayor of London may not be entirely correct, because your own numbers have changed three times in eight months across a variety of municipalities. Nobody trusts your numbers. Nobody does.

But back to the question of harassment because I think that's one of the major points you've made. Mr Gilchrist has argued, not very well in my view, that harassment will decrease. Your experience, as somebody who has represented tenants under three different pieces of legislation

now, is that harassment could increase, that this will give landlords a greater edge.

Mr Armstrong: There's no doubt in my mind, and I might mention, I also currently represent not just tenants but some landlords. As a matter of course, there are going to be landlords out there who are going to see this as a windfall, who are going to be out there looking for buildings where the rents have been historically low, and they can see where the rents can be raised. They're going to acquire these buildings with one thought in mind: "I can now, as these tenants move out, raise the rents and, again, increase revenue." It increases of course the value of the building. It's going to happen, there's no doubt, because there are people out there who are going to use this as an opportunity.

Mr Duncan: Would it be fair to paraphrase what you said that the supply of affordable low-rental units will decrease as a result of this bill?

Mr Armstrong: Absolutely. And I might point out, earlier I think there were some figures — I didn't catch them all — in the last year or so there appear to be more vacant units. There's a good explanation for that. There are a lot of people, because of what happened with the amount of moneys received on social assistance, who literally had to move out of their units. Where they've gone, I don't know, perhaps out of province, perhaps they've had to move in with other individuals. This may have temporarily artificially inflated the vacancy rates across the province, because literally people could no longer afford their units.

The Chair: Thank you, Mr Armstrong, for coming.

ONTARIO OWNED-HOME LEASED-LOT FEDERATION

The Chair: The final presentation of the morning is the Ontario Owned-Home Leased-Lot Federation, Phyllis Baker, chair.

Mrs Phyllis Baker: Good morning. I very much appreciate the opportunity of being here this morning, even if I did have to come from Newcastle. What I'm going to attempt today is to try to explain to you and hope that you will understand a little bit better what a planned land-lease community is and what a mobile home park is. There are two different components.

Our federation was established in 1987 to provide a forum for residents of land-lease communities to present concerns about assessments, taxation, leases, and to respond to proposed legislation at provincial and municipal levels. At the present time, we have twelve homeowner or tenant associations as members and we represent approximately 5,000 people.

The major task for the federation's board has been to deal with the provincial government on all matters dealing with rent controls and other legislation, and we do collect all information and share this with the members.

We have found that the concept of a land-lease community and land-lease homes is not yet understood by members of the Legislature, municipal politicians, real estate agents, lawyers and others, and question very much why we were combined in the definition with the mobile homes.

A land-lease community is not a mobile home park. The homes are site-built or modular and are fully maintained by the homeowner. Some of the older-established communities have evolved from seasonal mobile parks with upgrades and permanent housing.

In the mobile home parks now that are classified along with the land-lease communities in that they pay rent on the land, there are no facilities for the residents there, and the standards are not up to municipal standards, so they've sort of grown like Topsy over the years.

The land-lease communities are planned and built by developer-landlords according to a site plan approved by the municipality. Internal roads, water sewers and the maintenance of same are the responsibility of the landlord. Structures and facilities for recreational purposes, club-rooms, tennis courts, swimming pool, golf clubs and others are built and maintained by the developer-landlord. Municipal property standards do not apply but other standards do, such as environment etc.

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In appearance the planned communities are no different from a subdivision. The homeowner pays rent according to the guideline. This includes the land rent, the land tax, our share of common expenses, maintenance and house taxes. Any over- or underpayment of the house tax portion is rectified at the end of the year.

Under mobile home parks and land-lease communities, part V, we find sections 97 and 102 are acceptable. Section 103, regarding maintenance, we felt that had no impact on our land-lease community. We felt it was for apartment buildings. You may question that. The maintenance costs are paid for by the tenant in the rental package.

In some communities these costs have risen considerably because of poor planning in building the infrastructure. The landlord can then request an increase over the guideline. I think of our 12 members. We have all faced major rental increases over the last few years. The additional cost can adversely affect the tenants, most of whom are retired and living on fixed incomes.

Section 107 is acceptable to us. Section 108 we feel does not apply to land-lease communities, in my definition, as the homes are not mobile. Section 109(1) and (2), we agree with this section that the tribunal may determine a time frame for the cost of a capital expenditure.

In the legislation it says "ordered by the municipality or the province." At the present time I don't know whether it would ever happen that the provincial or the municipal people would come in and say to the landlord of a planned land-lease community, "You have to do so and so and so." This may happen in the future, so it's covered here. In previous submissions we commented on matters related to

capital expenditures, and these are all in the Ministry of Housing file.

Part VI: There has been much concern expressed that under Bill 96, landlords will increase rents to the maximum allowed for new tenants. We wonder what criteria will be used to determine the lawful rent without regulatory restrictions. In some land-lease communities the rent for resale homes is higher than rent for new homes because of the percentage increases over the guideline. This means that the home cannot be sold, and in some communities the value of the older home is much less than the original cost.

We believe that rent increases over the guideline for a specific purpose should take into consideration the life term of the asset, and this is covered in some respects with the option to the tenant of a one-time payment or monthly amount. We dealt with this last year when we submitted our comments on the working paper.

The tribunal: We endorse the creation of a tribunal to deal with disputes because the present system is much too unwieldy and time-consuming. Whether this will be any better I don't know.

Some of the long-term leases that are now being negotiated — we have 20-year leases in a land-lease community — include a section to deal with disputes and arbitration. Landlords have taken this into consideration; not all of them but some of them.

Land-lease communities are unique in that they include a certain lifestyle which appeals to retired persons or persons nearing retirement. The residents have organized homeowners' or tenants' associations. These associations, with an elected board of directors and committees, plan activities, provide a driver service for hospital and doctor visits, provide space for foot and blood pressure clinics and much more. Residents serve as volunteers for the local hospitals and other community organizations, and, I might add here, have a terrific impact on the income generated in that community.

We communicate the residents' concerns to local, provincial and federal groups. We stress the need for specific legislation for land-lease communities dealing with guideline increases, on one hand. It's our understanding, and I would like a response from Mr Gilchrist on this, that the land-lease residents may be charged an additional amount of up to \$50 above the guideline. We need clarification.

The Chair: The questions will start with the Conservatives.

Mr Gilchrist: I'm pleased to respond. Thank you very much for your presentation. We've certainly had the opportunity all across the province to hear from the owners of the parks and many tenants as well. We appreciate your drive, I take it, from Wilmot Creek.

Mrs Baker: I came on the train.

Mr Gilchrist: That's a long haul. Thank you for coming all this way. First off let me just say that we appreciate your specific comments on the other sections. There will be a test of reasonableness. You asked about the time frame for capital expenditures and that sort of thing. The

same test of reasonableness would be applied by the tribunal if anyone was to dispute an improvement. The tribunal would be sensitive primarily to something where a municipality ordered the landlord to hook up to municipal sewers if you hadn't previously been on that, or municipal water.

Mrs Baker: I think last year when I presented my brief — I sent it to the minister — one of those questions was that within one of our communities, there was this matter that part of the park was on the sewers and the other part wasn't. That's why that was —

Mr Gilchrist: That was a park near Ottawa, as I recall.

Mrs Baker: No, not in Ottawa. This was in Simcoe county.

Mr Gilchrist: There's another one in Ottawa where the older portion is still on septic and the new one is not.

The final point in your question: The land-lease communities will not be subject to the same sort of vacancy decontrol that apartments will be. In the regulations that will be drafted — it won't be in the bill itself but in the supporting regulations — there will be a formula developed that if you've moved out or sold your home, the landlord could on a one-time basis increase the rent.

The minister has already said, "There's no way we're going to let that be over \$50," and it could quite conceivably be lower than that. But we recognize, and I think even many of your members have commented to us that they know, there are some parks where we have seen rents as low as — the lowest one we saw anywhere was \$87 a month.

Mrs Baker: The rent was \$87, or was the maintenance \$87?

Mr Gilchrist: No. We had three presentations from Dryden. In fact, the average of those three was \$132 they were getting up there. They recognized — one of the tenants spoke at the Thunder Bay hearings — that they know the landlord can't afford to pay for anything. They can't fix up anything with that little amount of money coming in, a very different cost structure than you have at Wilmot Creek, I accept that.

The bottom line is that we recognize that in that very chronically depressed area there may be a need to get it up a bit. But as you correctly pointed out, today in most of the parks in southern Ontario, many new sites are rented for less than the existing ones. The landlord quite frankly is going to have to recognize that and bring the existing rents down.

Mrs Baker: I'm sorry to interrupt you. I should point out that some of these people actually have paid, in the newer houses that are being built now, a lot more than we paid for our home 11 years ago. It's a different model and probably all the upgrades are bigger, some of them have basements and all this kind of thing. It may have been an incentive to the people to buy and they would get a lower rent.

Mr Gilchrist: That's quite possible.

The Chair: We have to get moving.

Mr Duncan: Thank you for your presentation. We have no questions today.

Mrs Boyd: I was curious: You made a comment in the course of your presentation that a lot of your member groups have seen very large increases in rent in the last few years. Can you help me with that? You don't mean that they're actually illegal?

Mrs Baker: No.

Mrs Boyd: You're talking about them being, because of improvements in the property, over guideline as allowed.

Mrs Baker: Not improvements in the property, Ms Boyd, but certainly the landlord applied to the rent control and was given a certain percentage over the guideline. The last one we got in my own personal community was 24%.

Mrs Boyd: What was the rationale for that, if you remember?

Mrs Baker: We have found that at the beginning of this new concept of land-lease communities — they weren't called that; there was no other word for them so they were called mobile parks — they low-balled the maintenance cost portion, just like they did in the condominium field when we started in the condominium field.

Now what they are attempting to do is for everybody in a given situation to pay a different maintenance rate. When a lot of these places were built in 1987, 1988 and 1989, there was a bit of a boom on so it made a difference then, but now the landlords are attempting to equalize the maintenance costs. At the end of every fiscal year you get a statement saying what everything cost you. You can't say there are 625 homes and you're going to divide that into the overall cost. That's not right, but they're trying to get it so that everybody would pay the same maintenance cost.

Mrs Boyd: The way they do in a condominium?

Mrs Baker: Yes.

Mrs Boyd: You have a rent cost?

Mrs Baker: Yes, a rent cost.

Mrs Boyd: Say that's \$100. Is it conceivable that your monthly maintenance cost could be \$200? Could it be twice as much as your rental cost?

Mrs Baker: I don't know of any place where the rent is only \$100.

Mrs Boyd: I was puzzled too.

Mrs Baker: Yes, but in a mobile home park the rent might be up to \$150. It could be that the maintenance cost would be much higher than the rent if the rent was \$100. Some of our people pay \$800 a month, but that includes their property taxes too. At the present time, the way it's set up the maintenance costs are quite different. Your rent depends on the size of your home, how much land you have to have for it to sit on and where it's located in the park. In Wilmot, where I live, since we're located on Lake Ontario, the people who live facing the lake, closest to the lakehead, pay more.

Mrs Boyd: The maintenance costs at the present time, though, might be different depending on that, so your next-door neighbour, who also faces the lake, might have the

same sort of rental cost but might be paying a higher maintenance cost.

Mrs Baker: Depending on when they came in —

Mrs Boyd: When they came in. Thank you very much.

The Chair: Thank you, Mrs Baker, for coming such a long distance.

That concludes the presentations to the general government committee this morning. Before I recess until this afternoon, I wish to inform members that the checkout time at the hotel is 1 o'clock. There will be a room available if you wish to leave your baggage there until the conclusion of the hearings this afternoon. This meeting is adjourned and we'll reconvene at 1:30 this afternoon.

The committee recessed from 1154 to 1330.

DAVID WINNINGER

The Chair: Good afternoon, ladies and gentlemen. We'll reconvene the proceedings. This afternoon our first presenter is David Winninger, who, members of the committee should be aware, is a former MPP who represented — I'm sure he'll tell us — one of the London ridings and was a member of the New Democratic caucus in the last government. It is good to see you again, Mr Winninger. You may proceed.

Mr David Winninger: Thank you, Mr Tilson. It was London South.

The Chair: London South. How could I forget?

Mr Winninger: As a lawyer and former MPP, I've represented tenants and tenant associations in the past and also in the present. I also recently became a small landlord after acquiring my office building with two residential units.

I presented to this committee in response to the government's discussion paper entitled Tenant Protection Legislation: New Directions for Discussion. I'm very disappointed this government has chosen to ignore the many representations made on behalf of tenants at the earlier stage of these proceedings. Abolishing rent controls for new buildings, and for older buildings once tenants vacate, and watering down protection from wrongful eviction is going to force more and more tenants into homelessness.

While 15 minutes is a short time to address all of the myriad issues involved in the legislation, I will address a number of my concerns within the time available to me.

Firstly with regard to rent control, social housing has already been dealt a mortal blow with termination of funding for co-ops and non-profits. Public housing is being downloaded to the municipalities, where funding can compete with roads and sewers. People on social assistance have already had their benefits cut to the extent that an unacceptably high ratio of their income is spent on housing. For many tenants, there will be nowhere to turn for affordable housing once this legislation is in place.

To name this legislation the Tenant Protection Act is, to my mind, a travesty. Many of the new tenants facing rent increases are people who benefit the most from rent con-

trols, including seniors forced to move out of their homes due to massive property tax increases sanctioned by this government; students seeking housing to attend college or university, who are already facing huge tuition hikes again sanctioned by this government; and disabled people leaving institutions and seeking to live independently at a time when funding for community-based care remains in question.

Dr Applebaum, a professor of sociology at the University of California specializing in issues relating to housing, studied the impact of rent controls a few years ago. He determined that when Los Angeles introduced decontrol-recontrol provisions similar to Bill 96, the percentage of income spent on rent increased, with the highest increase for low-income earners. Further, the number of unaffordable units increased with the abolition of rent controls. Applebaum concluded that rent control provides a low-cost alternative to government subsidies without appearing to have an adverse effect on local housing markets.

This government's agenda is ideologically driven in favour of the private sector — no surprise. Rent controls have already been fine-tuned to ensure landlords have sufficient income to maintain their buildings. For existing tenants, increasing the cap for capital expenditures and removing the cap completely for increases in taxes and utilities will create a recipe for escalating rents which the average tenant cannot afford.

Why put more money in the pockets of landlords? This will not create a building boom, as there is no incentive to expand the housing market when a low vacancy rate will tend to increase rents.

Further, the legislation allows landlords to continue to build the cost of capital repairs into the base rent long after the repairs have been fully paid for. Why should costs no longer borne be factored into calculation of the landlord's rent entitlement at the expense of the tenant?

The existing legislation ensures that landlords who do not properly maintain their buildings do not qualify for annual statutory increases. Bill 96 removes this protection for tenants and allows rent increases, notwithstanding that work orders issued by the municipality are being flouted. How can municipalities already hit with transfer cutbacks be expected to devote additional resources to enforcing maintenance when the province will allow landlords to circumvent work orders with a wink and a nod?

With respect to changes to the Landlord and Tenant Act, there is no provision for enforcing rights of tenants, such as the right to delivery to the tenant of a copy of the lease. Tenants should be allowed to pay withheld rents to the tribunal, which would be paid to the landlord only when the landlord complies with this obligation.

It should be a mandatory part of an order made by a tribunal that excess rents or abatements owing to the tenants be recovered in full or, if not, by deduction from rent. In Bill 96, this right under subsection 182(3) is merely discretionary.

Under existing legislation, a tenant's privacy rights were protected in that a landlord could enter to deal with

emergencies or to show the premises to prospective tenants when a notice to terminate had been served by — and there is an error here; it should read "served by the tenant" — the tenant, absent consent by the tenant. Under Bill 96, a landlord who gives notice to terminate can show the premises to prospective tenants whether the tenant agrees or not. Thus, a tenant can be subjected to harassment by a landlord looking to evict a tenant for spurious reasons, possibly just to increase the rent once the unit becomes vacant.

Notices to tenants should state the grounds for termination with full particulars so that tenants will know the case they have to meet. Further, if notices are deemed to be served only five days after mailing, this will work a hardship upon a tenant who due to late mailing has little or no time to respond. Heaven help the tenant who happens to be on vacation when the notice is served.

Special provision also needs to be made for the visually impaired. I recall a former constituent who was evicted because he was unable to see the notice posted by his landlord on his door.

Formerly, a tenant could either file a dispute in writing or appear at the return date of the application. The requirement of a written dispute in Bill 96 will undoubtedly pose a monumental challenge for tenants who lack literacy skills or may be unable to write in the English language.

The provision in Bill 96 for enforcement of unwritten agreements to terminate a tenancy should be amended. This is open to abuse, as a landlord can apply to terminate on this basis without notice to the tenant, even when the alleged agreement may have been a preliminary one or a conditional one. To set aside the order, however, the tenant must give notice to the landlord, and within 10 days of when the order is made.

There needs to be a provision for relief against forfeiture or for a writ of possession available to a wrongfully evicted tenant or a tenant threatened by wrongful eviction. This protection, available from the court under existing legislation, is not directly included in Bill 96. The tribunal would have to respond very quickly indeed, or the tenant's right to a particular unit will be illusory. Requiring payment into the tribunal for payments other than rent arrears before the case is heard may bar many tenants from access to justice. Up till now, of course, a tenant can be required to pay rent arrears before a case is heard. Now that requirement can apply to all forms of applications.

For these and other reasons, tribunals need to be conveniently located for easy access to tenants. Fees or costs, if any, should be modest. Facilities need to be physically accessible, and interpreters and child care provided where necessary.

While a landlord may change the locks at will, a tenant can only do so with the consent of the landlord. The ability of a tenant to protect against crimes against person and property is compromised. If this government means what it says about getting tough on crime, it should take measures to protect the security of tenants.

Under Bill 96, landlords can seize a tenant's personal property and dispose of the property. A landlord can even dispose of a mobile home by gift or to recover expenses, with no requirement to act responsibly or reasonably. If a tenant dies, the landlord can dispose of the property after 30 days, before the estate of the deceased even has a chance to act. If the landlord disposes of the property before the 30 days are up, there is no remedy to the tenant. A remedy of relief against forfeiture must be available and a provision included that sale must be to a good-faith, arm's-length purchaser at reasonable market value.

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Lastly, mobile homes: There is no need to restrict the erection of For Sale signs to the windows of mobile homes. Under existing legislation, the Wessenger bill, these signs may appear anywhere on the residential premises. The alternative, involving the landlord displaying For Sale notices on a bulletin board, is simply inadequate. The landlord, who will make a profit selling his or her own mobile homes, does not have to display advertisements as prominently, or we may find that the advertisements may disappear from the bulletin board from time to time as the landlord seeks to dispose of his or her or its own mobile home units. Further, a tenant association will no longer have the say in the restriction on the placement of signs, as they do now.

Finally, purchasers of mobile homes will be interested in what the maximum for new rents will be. As you know, mobile homes will be exempt from the removal of rent controls. However, rent increases will be prescribed by regulation. Regulation not having been promulgated, we don't know what these rates are going to be. We hope they're not going to be punitive.

In conclusion, I would urge this committee to revisit many of the problematic aspects of this legislation, to take the time and care to ensure that if you are going to amend the Landlord and Tenant Act after these many years and amend the Rent Control Act and you do indeed want to ensure that there is at least an even balance between tenant rights and landlord rights, to draw back on some of these positions that the government has taken to ensure that the balance between landlord and tenant is a fair one. As you know, most of the legislation that now governs landlords and tenants was introduced under former Conservative governments. I do hope you will have the wisdom not to set aside some of the proactive measures that were taken at the time, for example, in part IV of the Landlord and Tenant Act, to ensure that tenants weren't evicted without cause.

Those are my submissions.

The Chair: Thank you, Mr Winninger. We have time for one question. We will give that to Mr Duncan.

Mr Duncan: Thank you for your presentation. One area that you didn't deal with and that I'm just curious to hear your views on is the tribunal itself. What are your views with respect to the tribunal in terms of a new body to resolve disputes? I'd like to get your sense of that part of the act.

Mr Winninger: Judging by existing experience, I think tribunals try to do an adequate job of adjudicating these disputes. One of the major problems is delay. Right now the tribunals deal with setting of lawful rents and applications for rebate of rent and some miscellaneous issues.

Time is not always of the essence in those applications, but when you're dealing with someone who has been served with a notice to evict, who has to respond in five days or who may have missed receipt of the notice and posting of the application and has to move very quickly, I just wonder how responsive tribunals can be when a tenant has to move within a day or two to have a default order set aside. I don't know how it's going to happen unless adequate funding is provided to the tribunal, and I don't see that being signalled at the moment. If anything, funding seems to be under attack in the area of housing.

The Chair: Mr Winninger, thank you for your usual thorough presentation. Thank you for coming.

JOHN TIMMERMANS

The Chair: The next presentation is John Timmermans. Good afternoon, Mr Timmermans.

Mr John Timmermans: Good afternoon, ladies and gentlemen. I'm John Timmermans from Strathroy. I am here as a landlord in the town of Strathroy. I didn't see Bill 96, the Tenant Protection Act, and I don't know what's in it. I'm simply here to add some ideas that should be in the Landlord and Tenant Act.

The news seems to be always for tenant protection. I never hear of landlord protection. All those who are setting the rules for the Landlord and Tenant Act should have been a landlord themselves. Then they'd know what they're talking about.

Landlords seem to be the culprit: They never fix apartments and they're letting the buildings go down beyond repair. This is not really true. They neglect to print that many tenants leave the apartment in ruins when they move out, and then the repairs begin.

We should have the pet law changed. On my rental application it reads in big, fat, bold letters, "No pets allowed." They all sign on the dotted line and they tell me they don't have any pets. Then they bring them in afterwards. It has cost me many carpets, and the smell can be so bad that I have a problem renting this apartment out again. Some good tenants move out for that reason.

The new law, that landlords can up the rent when new tenants move in, wouldn't solve much in my case. It wouldn't help me. I look at it simply as supply and demand. I have lowered some of my rents.

I sent in my submission about 10 days ago, recently, on July 26. I'm reading this article in the London Free Press of July 29:

"City Rejects Rent Rule Lobby

"A provincial plan would allow landlords to refuse tenants who receive public assistance or whose income falls below the threshold. We must avoid having people living

on the streets or in public housing but landlords must have reasonable assurance that the tenant can afford the premises."

This problem, the way I see it, could very easily be solved if the landlord would receive the rent directly from the public assistance office and then the balance should go to the person receiving assistance.

I would take any tenant, if they were good housekeepers, if I knew I was getting the rent. Both landlord and tenant would be happy. I have been trying to push for this proposal to Bruce Smith, Al Leach, Mike Harris, so far to no avail. I am sure many landlords would stand by this proposal. I don't believe the point is raising the rent. My point would be simply to receive what we deserve.

Bill Armstrong mentioned the difference in rent one apartment to another. I have this problem. I have a tenant paying only \$260 per month, while on the same ground floor a two-bedroom apartment pays \$425. There should be a rule made in this bill to have some rent updated to within reason. We also pay a much higher insurance rate than other people for a single dwelling house.

Many people who used to be good tenants now have bought a house. Therefore, we landlords are now stuck with tenants who are in a lower income bracket. The reason more people are buying a house is, number one, the economy has improved, and secondly, the low interest rate for the last few years.

The way I see it, the market for a good tenant is gone. I used to be in a business to look up to. Now, since the reduction in social service in the Mike Harris government, thousands of people have found a job. Many of them are buying a house. I know a man of my age should not be in this business but I can't get rid of my buildings. Nobody seems to want them.

MPP Bruce Smith, in my riding, writes me that, if we have a problem not getting rent, then the ministry of social services will review the situation to determine how we can ensure that social assistance paid to recipients for rent actually goes to the landlords. I'm really waiting for this to happen.

I found a letter in the paper the other day. The person was saying that with this new law the landlords could be chasing out the tenants and then raising the rent. I don't think that's the way it's going to work. That's not the way I see it. I think most landlords are interested in getting the rent they deserve. I thank you.

1350

The Chair: Mr Timmermans, we have some time for questions. Would you be prepared to entertain some questions from members of the committee?

Mr Timmermans: Any time, if I can.

The Chair: Let's try it. Mrs Boyd is first.

Mrs Boyd: Mr Timmermans, you were talking about the issue of wanting to be able to refuse a tenancy to someone on social assistance and that the answer you had got was that there might be a review of that by social assistance. Under the General Welfare Assistance Act, if people on social assistance have shown themselves to be

unable to be faithful about their rent, there is a provision where they can arrange, with their consent, to have that rent deducted directly from their cheque. Have you ever gone through that process with Middlesex county?

Mr Timmermans: I haven't; I have tried. I also have a property in Lambton county. I have people out there — as a matter of fact, one person we had to evict cost me \$500 for a lawyer, and they owe me \$4,600. Another one owes me \$700. They were on welfare assistance. I have been trying to talk to the office in Wyoming; that's where the office is. They tell me it's impossible because those people have rights. Now, where do I stand? They owe me this money, and I can't get it.

Mrs Boyd: I understand your problem, but I also understand the other side of it, which is that the allowances that are paid are so low that unless someone agrees to have their amount deducted directly, it really means that people aren't managing their own money. Part of the objective is to try to get people to a point where they are able to be responsible and willing to take on that responsibility of being a tenant as well.

Mr Timmermans: I wish they would take on the responsibility of paying the rent. What I find, and I've mentioned this before, is that many people now have found jobs, they've bought houses. We're stuck with the lower end of it. I know the tenants I've had — I don't know whether I'm a poor guy to screen them out — buy vodka by the case, they buy beer, and they don't have the rent money. How long is this going to last? If we could get the rent directly from the office for people who are on social assistance, at least we could stay in business. At my age now, I might go broke, because I have money outstanding all over the country.

Mrs Boyd: That was the other question I was going to ask you. It just doesn't sound like a very good investment, does it?

Mr Timmermans: Well, many investments were made years ago. That's when I made my investment. At that time, it was not a very bad investment. But since — I mentioned this before — there are fewer people looking for apartments, because, you know, they've found jobs — Mike Harris is doing a damn good job. A lot of people don't like him; I do. The former government screwed it up. The Peterson government increased the social welfare to these people by 20%. This province is still in much better shape than all the other provinces.

Mrs Munro: I want to come back to that issue. I believe the Minister of Community and Social Services, the Honourable Janet Ecker, did make reference this spring to the opportunity that would be available, as Mrs Boyd has referred to, that you as a landlord would be able to enter into an agreement where moneys would be paid to you directly. I'd certainly encourage you to explore that option, because clearly what you have suggested to us are the difficulties you've encountered in the past. We are making that opportunity available in order to, frankly, give security to those people on social assistance as well as their landlords. I'd encourage you to do that.

The other question you raised was the issue of damages. I just wondered if you could give us a sense, in any way, of a percentage in terms of how big a problem this is. Obviously any damage is a problem in terms of your being able to recoup the costs. But I think it's important for us as a committee to understand the degree to which this is a problem for landlords. I wonder if you'd comment on that for us.

Mr Timmermans: The damage issue, as I've mentioned before, is if they bring in pets, I'm not against pets, but I still think they belong on the farm. When I vacuumed out the room and I put in a new bag, within five minutes the bag was full. I was wondering if my vacuum cleaner broke down. It was solid full of cat hair. How can you present that apartment to new people? The same with the last people I had to evict; it cost me \$500 for the lawyer. I had to clean up the whole business, throw out the carpet, because you could see the cat shit right in the carpet. There were six full bags of solid garbage. They weighed 50 pounds each. There was an inch of dust on every lampshade. We're stuck with those kind of people. Then you find them sitting in the bar every afternoon. I don't know how the people in London handle the situation, but I have a big problem. I want to get out as quickly as possible.

Mr Duncan: Thank you for your presentation. I have no questions.

The Chair: Thank you, sir, for making your presentation to the committee this afternoon.

Mr Timmermans: Thank you. I hope we're getting somewhere with what I've been putting in here.

The Chair: Thank you for your comments.

GRAND COVE RESIDENTIAL RATEPAYERS ASSOCIATION

The Chair: The next presenter is the Grand Cove Residential Ratepayers Association, Robert Ford, board member. Good afternoon, Mr Ford. We have your written presentation. You may start when you're ready.

Mr Robert Ford: Thank you, Mr Chairman and committee members. I have been asked to make this presentation on behalf of the Grand Cove Residential Ratepayers Association Inc. We're here to help. Perhaps the most important item I would ask you to consider today is the fact that homeowners in Grand Cove Estates and in similar owned-home, leased-lot communities are in a unique situation.

First of all, let's identify where we are located and who we are. It's a retirement community in Stephen township in Huron county. It's adjacent to Grand Bend, a small village on the west coast of southern Ontario, halfway between Goderich and Sarnia. There are a little over 360 homes built at the moment, with 30-odd serviced lots available for more homes. There's some construction going on at the present time. The project is 20 years old, having been constructed in four phases. The early phases were factory built. We understand they arrived on wheels

in two halves; they were called "double wides." I think Bendix was the company that was producing some of them. They were put on to posts, foundations and what have you. The fourth phase, which is being constructed now, and some of the third phase, we believe, is what you would refer to as "stick-built" homes. These are built with dimension lumber, sheathing, panel boards, trusses, roofing etc. They're permanent structures. They're placed on concrete foundations, on either concrete block or poured walls, on crawl spaces or subbasements.

The homeowners own from the plate up. The landowner owns the land, the footings, the foundations, the property and the common facilities, which are the clubhouse, the pool, park areas, roads, maintenance, sheds etc.

The population of Grand Cove Estates is about 540 retired people; 140 of these current homes have one person in them, and over 100 of those have widows in them. It's a 20-year-old project, and this is quite understandable in that women normally live six years longer than men. It may be, we feel, that some of them may have some financial hardships, like my situation, in that I don't have a transferable pension.

Many of these homeowners have significant amounts of capital invested in the homes. If you put them together totally and look at the current assessed market value of the homes, homeowners in Grand Cove Estates have an equity of about \$17 million; the landowner has an equity of about \$8 million. We pay for the land, the maintenance, the taxes on the sites and the taxes on the house.

Looking recently at the August issue of CARP News, CARP being the Canadian Association of Retired Persons, it's a little disturbing as a retired person to see on the front that Canada may be one of the best places in the world to live but it's becoming one of the worst places in the world for retirement. I'm pleased to see this committee doing something that may improve this and change it.

1400

Also, there's an article in here: "Many Canadians...assume that seniors are well off financially. The truth is that even with public pensions" — according to the studies done by CARP — "46% of seniors have annual incomes of less than \$20,000. And fixed incomes do not allow for...dramatic changes" in rents etc.

We support something that Phyllis Baker, chair of the Ontario Owned-Home Leased-Lot Federation mentioned some time ago, that in many land-lease communities the land rent is in excess of \$600 per month. Personally, I pay \$443 and change every month. That is maintenance, land rent, site taxes and taxes on the dwelling. In addition to that, heat and light runs about \$200 a month. In addition to that, if you look at depreciation, because we're living in a vehicle — it's only a vehicle similar to a car, truck, bus or what have you; we just happen to be living in it — they don't appreciate. They depreciate. Looking at the last two assessments, my depreciation is about \$16,000 from what I paid for the house, which I calculate amounts to \$180 a month, so my real rent is about \$823 a month. Still, it's a very nice place to live. It's a nice project. It's well located,

we get excellent service locally, the climate is pretty good, and boy, the traffic is light compared to where I used to live in the Metro area.

The other thing that is different is tenants in an apartment building, and I'm not sure — it has been a long time since we have lived in apartments and rented — but we suspect that renters have a shorter lease than we do, one or two years. You can correct me if I'm wrong. In our case, it's a 20-year lease. My wife and I went there seven years ago at 70 years of age and signed a 20-year lease. Were we ever confident we were going to live to be 90 years old.

But it's difficult to change your living accommodation and in most cases it would cause great hardship. These homes are not mobile homes. They could be moved — any home can be moved — but under very exceptional conditions and at considerable expense. The alternative to moving a home is to sell it, and this is not always the easiest thing to do because of the increases in rents and so on. We have instances where people could have sold their home, but potential buyers are deterred by high monthly rent.

The other difficulty we have with the current regulations, and we're not sure that we know enough to talk about these regulations, is that the rulings of the rent control program don't seem to work as we thought they would work. For instance, in April we had 18 applications for what we considered was excessive rent. We had 18 hearings with the rent control program officer, and they found in favour of all 18 of our members. The landlord is appealing those orders.

There's a fair amount of money involved, several thousand dollars, and it goes back to 1992. In addition to appealing them, he has also filed a motion to stay the orders and to stay any new applications for what might be excessive rents. As respondents, the homeowners are the ones apparently who have to respond to this appeal and to the motion rather than the rent control program. It's very costly to some of them, and some of them may not be able to afford to respond in a proper way.

The other thing about this is that next month we will probably be getting notices of the rents and the guidelines and so on for next year. With this stay, if it is granted, and with the appeal, which may take several months before it's heard, the calculations may be on a very different base than they should be.

Finally, with reference to some of the specifics in Bill 96, while we have looked at some parts, there are some misleading or what seem to be contradictory comments in the sections that we read. In the introduction, part I on page 8, definitions, "'land lease home' means a dwelling, other than a mobile home, that is a permanent structure...." Certainly that's exactly what it is. That's what we paid \$110,000 to \$125,000 for.

On page 48, section 101 currently, part V, the guidelines in there, there are four or five different items that list tenancies are to be handled as if in a mobile home park. We find this misleading.

As to sale signs in section 101, items 2 and 3, currently, although a bulletin board is provided, it is not always available to all the tenants and not always readily accessible to the public. I just looked at it before coming out. I think there are 43 resale units in our community at the moment.

With reference to part VI, on page iii, "This bill provides for agreements between a landlord and tenant to a rent increase if the landlord has carried out or will carry out capital expenditures" of some kind. Our problem with this might well be illustrated by the most recent change we've had, a so-called improvement, the so-called security gates that have been installed in Grand Cove Estates. We really believe that the sole purpose of these gates was to provide a control over prospective buyers for the house on the part of the land owner and to make sure that most of these sales go through the land owner's home sales management team. We're wondering if these capital expenditures should not be for the landlord rather than for the home owner, because they're for his benefit rather than ourselves.

1410

Part VIII, page iii of the bill: "The tribunal may charge fees for application, for furnishing copies of documents and for other services." To be charged to whom and what the charges will be are questions we have.

"Charging rent in the amount greater than permitted...harassing a tenant," part X on page iv: In the aforementioned motion on appeal, some of our members have followed the guidance given from the rent control program and in July and August paid that amount rather than the higher amount, and have since received invoices showing outstanding amounts. I believe specifically in Bill 21 it suggests that when an order is granted, an appeal does not stay the order that the rent control program gives.

In closing, I would express appreciation for your time and effort to help old people like us. I know we're not a large percentage of the population, we seniors and retired people, at the moment, but come the next 15 or 20 years, we are going to be, all of us. We approach it one year at a time, annually. I'm personally not really asking for anything for myself, because I'm not going to be around that long, but for my kids and my grandkids and my great-grandkids, and yours, the things you're doing should improve the situation so that it's better for both landlords and tenants, and land owners and homeowners. We wish you well.

The Chair: Thank you, Mr Ford. Questions?

Mrs Munro: Thank you very much for coming here today. Certainly you represent a group that is, as you point out, growing, and one for which this legislation attempts to make some changes.

I'd go back to the issues you raised on page 3. Section 103: You've asked whether it applies to you as well, and the answer is yes. If you look at section 97 in the legislation, section 97 tells you that everything in this section applies to both things, so that would then include section 103. Okay?

Regarding section 101, you point out that there is a bulletin board but it's not available to all tenants, not readily accessible. The legislation is very clear that all of those criteria must be met.

You refer to the issue of an appeal process and how this has dragged out for you as tenants. I wondered if you have any comment to make about the notion of the tribunal, whose mandate is to provide a timely and less costly process for people in your situation.

Mr Ford: We would certainly come down on the side of that, for sure, yes. All respect to the gentleman who made the presentation immediately after lunch, but boy, we're not that knowledgeable and skilful in those things. We certainly would hope that the tribunal would have some teeth to ensure, first of all, that the decisions are made, as the gentleman mentioned, quickly, correctly and are adhered to.

Mr Bruce Crozier (Essex South): Thank you, Mr Ford, and good afternoon. I want to clarify something on the personal figures you've given on page 1. The \$180 for depreciation is not an out-of-pocket expense. That's just an expense that you've included as a monthly —

Mr Ford: It's not an out-of-pocket expense until they sell the house. But my point is that it's really not a house and real estate as we normally understand these things. Many of us have bought and sold several, from coast to coast, in my case. It's just a vehicle, the same as any, the vehicle you drive in to come here. It does depreciate.

It's not an out-of-pocket in that sense, but when you have equity there, you're not gaining something with the equity, as we all have been romanced into with inflation over time. I'm afraid some of us, in our park and possibly others, seem to think from our past experience that it's an investment in a house. This land-lease business is not an investment. It's more like a piece of equipment, in my judgement.

Mr Crozier: When you first went into this, sir, and I ask this respectfully, did you realize that perhaps it would be the type of investment that you now recognize it to be?

Mr Ford: No, we did not. Nevertheless, it's been worth it. It's a good place to live. To have the things we have there, to have the neighbours and the friendship and the cooperation and the lifestyle and the sports and activities, we couldn't buy that for \$825 a month. I just want it to be clear that it isn't an inexpensive place to live. I've heard figures mentioned that are quite small.

Mrs Boyd: Thank you very much, Mr Ford. It's helped me very much to understand a bit more about the concerns faced by people in terms of this whole issue of the investment. While I'd heard about some of the concerns around maintenance and around sewage and that sort of thing, I hadn't really got the picture of how this equity you have is in danger of being diminished. I guess for many of the folks, that's their major thing they're hoping to leave as a legacy to their children and grandchildren.

Mr Ford: That's right.

Mrs Boyd: Is it your experience that if someone put, say, \$100,000 equity into one of these homes, when they

are deceased and the property is sold that it's sold at a considerable loss?

Mr Ford: Very considerable.

Mrs Boyd: Could you give me a ballpark figure? Are we talking about a 20% decrease?

Mr Ford: We're talking about up to a 60% decrease, I suspect.

Mrs Boyd: And when they're sold does that then change the nature of your community? Is that another one of your concerns?

Mr Ford: Not particularly, no. But some of them are — as I've told my kids: "Dutch auction the thing. Don't hang on to it." The reason I say that is that at \$500 a month, and some of our rents are over \$600 a month, you're dropping \$6,000 a year. I've said to the family, put it on the market at whatever you think the price is and drop it \$1,000 a month until it moves.

The Chair: Mr Ford, your time has expired, but on behalf of the committee, I thank you for making your presentation this afternoon.

1420

PENNY MOORE

KIM CAMPBELL

The Chair: The next presenters are Penny Moore and Kim Campbell. I might say, Ms Campbell, you certainly will have the attention of the Tory members even before you say anything. Welcome to the committee.

Ms Penny Moore: Be patient with me. This is the first time I've done this to a big group like this.

The Chair: That's all right. It's the first time for some of the committee members too.

Ms Moore: I am a person who is in receipt of a disability pension, classed as permanently unemployable, receiving the maximum of \$930 per month on FBA or family benefits. The monthly cheque is broken down by social assistance. The maximum allowable for shelter is \$414. This is to pay rent, utilities such as hydro, gas and water and the other utilities. The balance of it is \$516, which is called Gains. The balance of the cheque, \$516, is for food, medication not covered by the Ontario drug benefit plan, known as ODB, co-payments for prescription medication, clothing, transportation, items needed for basic living such as salt and toilet paper and many other things needed for day-to-day living.

For a person to be eligible to receive any form of social assistance, the person must have and show proof of a permanent residence they are living at or in. If this bill gets approval that landlords are able to deny anyone by income, there will be more people living on the street and probably more crime, since if a person does not have a permanent residence and is forced to live on the streets, they become ineligible for social assistance. They then have to find other ways to obtain money to live on. Some may be lucky to find affordable housing, but it may not be suitable, such as housing where repairs are not done or

that are infested with pests such as mice and cockroaches. They are classed as slums.

For a person with a disability or a medical condition who is forced into living in substandard housing, their health could deteriorate to the point where they need more health care costing more in government funds. With the government forcing the closing of psychiatric hospitals, especially in our area, both London and St Thomas, the mentally ill will be taken advantage of by offering substandard housing for them for higher rent, since there is nowhere else for them to go. They will be living on the streets.

Most people on social assistance go without a lot of things. A comment was made before about buying beer. Not all of us spend our money on beer and things that are luxuries. We go without such things as basic cable, where we may have only one or two channels to watch on TV, if we have a TV. Some can't afford a telephone, which, to a disabled person with a chronic medical condition, is a necessity to be able to call for help when needed, such as an ambulance for a severe asthmatic having an asthma attack, which can prove fatal. Also, people on low income, below the poverty line, can't afford proper clothing such as boots and coats during the winter. People have died from freezing in the streets or lying on the street. Try using a newspaper for a blanket to keep warm.

When Harris was elected as Premier, he cut funding to affordable housing projects such as co-ops that were in the process of being built, and on starting new projects. Each day there are people waiting for subsidized housing because there is no affordable housing suitable to their needs.

An example: A couple of years ago, I had to apply for an apartment to move out of Ontario housing because of fear for my safety and health. With the restrictions on parking, I cannot have somebody stay with me. If I became ill and had to go in the hospital, their car would be towed away. I applied for an apartment that was more than 30% of my income. On the application it asked the type of income I am receiving and how much. Because I liked the apartment and needed to move, I gave this information and a \$200 deposit, which I was told was to reserve the apartment until my application was approved or denied — I had to borrow it from friends and had to pay it back — and would then be given back to me. I waited about three weeks after submitting the form. I called about four days after submitting. I was told they didn't hear anything. After three weeks I asked for my money back. They told me that I need a co-signer. I got a co-signer that had \$40,000 a year and guaranteed that I was going to pay my rent. I was still turned down. I did some more investigation and found out that a person had applied for the apartment and, within the next day, he was approved because he was not in receipt of public assistance.

If this bill is passed, I fear for my safety, my health and my state of mind, that I will be forced on the street. I would not like to see anybody on the street. Please think about this bill.

Miss Kim Campbell: I find that being on a disability is very debilitating to me because of the funds I receive of \$930. My budget consists of: Out of the \$930, I'm allowed \$414 for rent — my rent right now is \$522.96 per month; I have a phone, which is classified as a luxury, but when you have emphysema, COPD and also neurofibromatosis, which are all life-threatening, you need a phone and therefore, it's a cost of \$30 for me; transit money to get back and forth to and from the doctor's four times a week, \$56; medication not covered by my drug card, \$124; the co-payments I have to pay because of the \$2 structure fee, \$80. On top of this, I also have insurance fees for my apartment of \$25. This brings me to a total of \$836.96 out of \$930, which leaves me \$92.04, to be exact, for food and any emergencies. I feel that if you put this bill through, it will further jeopardize me.

I'm having problems as it is right now, that my landlord is forcing me out because of my income, because of what I'm on. I've got an infestation of ants. Property standards have been involved, the Landlord and Tenant Act has been involved, a lawyer has been involved, and also the health board has been involved. The landlord refuses to do any repairs. He figures if he puts me out then he can get a "better quality of person" to live in that apartment, as I was told. This is discrimination, and if this bill goes through there will be further discrimination. I will end up being forced out on to the street because there is no other affordable housing. I've tried other buildings in my area that are lower in rent. I've been told: "Sorry, we don't take people on welfare. We don't take people on FBA. They're bums. Go to a section of town you're welcome in."

Ms Moore: I would like to add that the Tenant Protection Act says in subsection 200(3), "The right under section 2 to equal treatment with respect to the occupancy of residential accommodation with discrimination is not infringed if a landlord uses in the manner prescribed under this act income information, credit checks, credit references, rental history, guarantees or other similar business practices which are prescribed in the regulations made under this act in selecting prospective tenants."

1430

How can it be determined equal treatment if a landlord can refuse by income or tenant history? What happens with some of the students who are looking for housing for the first time? They want to make a living. They don't want to depend on their parents. I've been through it and it's hard. I think if this bill goes through, there'll be more students living on the street trying to get an education and also taking more funds from government and trying to get a job, which they can't because they don't have the rent to get an apartment so they can go to school and get a good education for a job.

Mr Duncan: Thank you for coming forward today. I know it's difficult to appear in front of a body like this. Vulnerable people today, even under the existing regime and a regime that admittedly has never been perfect under a variety of governments of different political stripes, you

still find yourself vulnerable and exposed to the whims of any particular landlord. Is it fair to say that you don't buy a case of beer all the time?

Miss Campbell: I do not drink at all. I'm allergic to alcohol.

Mr Duncan: Is it fair to say that most people who find themselves in your position would prefer not to be there?

Miss Campbell: I would prefer to be elsewhere other than where I am now due to the fact that the infestation I have and the problems I'm running into with my landlord deter my health. Due to the problems in the apartment, I'm having to go in and have half a lung removed.

Mrs Boyd: Thank you very much for coming and being prepared to share with us the details of your circumstances. I think it's only when we get a human face with real experience that it helps us to understand a bit better how tough this is and how vulnerable people are. I think you're right. I believe this bill is going to increase that vulnerability. It already sounds as though it must feel very tenuous to be in the situation you're in.

Ms Moore: Also, our rents go up every year but our income has never gone up. I have an education as an RPN. I love my work but I can't work because of health, and because of this I may be forced on the street and maybe to death.

Mrs Boyd: It's very frightening and it's a very real aspect of this. I know it's hard to talk about.

Miss Campbell: I face the same thing. I'm a trained and licensed riding instructor, horse trainer and jockey. I'm used to getting \$30, \$35, \$40 per hour. When I went on to disability pension because of my health, because they found out I had, as they call it, the "elephant man's disease," for which I undergo surgery every week, I feel very jeopardized where I am living now. I have done everything I can within my power, within legal rights, to have the landlord fix the property up and he just goes, "No, I'll wait till somebody better comes in." That's telling me that I'm a piece of garbage. I am not garbage. I am human. I have feelings. I have a heart and soul. I have a right to be heard. The only way I would be heard is by coming here today, stating my opinion and how I have to live, because nobody else really knows unless they're there and in my shoes. Nobody has walked like I have in my shoes, and plenty of times I have had to go to my mother and say: "Can you cook this food up for me? I have ants in my apartment and I cannot keep food."

Mrs Munro: I want to add my thanks to you for coming here today. As people have suggested, it's really important as a committee that we have this opportunity to speak directly to people. I want to assure you both that the question of discrimination is one about which this government feels very strongly and that the need for human rights is as important today as it ever has been. Certainly there is that commitment to deal with these issues. As you pointed out, clearly the kind of experience you've had demonstrates the fact that regardless, there still exists discrimination.

I want to point out to you, because your comments centre around section 200, that there is nothing in there that relates to the 30%. I think it's extremely important to understand that if it has been used by landlords, it is certainly not within the legislative framework.

The other thing about it is that I'd like to have your comment on what is appropriate for a landlord to ask. I certainly have heard deputations by women who come to this situation and have no rental history, don't have a credit rating. You've mentioned for instance young adults, someone who may not have these things. What do you think is appropriate then for a landlord to ask?

Ms Moore: It's hard to say, because some people do not have family there that can back them up. Some people have just got out of high school. It's hard to say what the landlord can ask, but make it fair. Talk with the person. Get to know we're not a piece of garbage. If you respect us, we'll respect you.

Even though the 30% rule hasn't been written in law, landlords have used it for years. I've been out on my own for about 17 years. I've been in Ottawa; I've been in London in several places. I was denied this one apartment. I went into an apartment and I only lived there five months because I had no heat during the winter. I asked the landlord to come and fix it. He said, "It costs too much." I ended up being sick and in the hospital and almost in intensive care because I have severe asthma and he didn't think it was necessary to have heat.

The Chair: Unfortunately, we have run out of time. I thank you for coming and making your comments to the committee.

Ms Moore: I hope it helps.

Miss Campbell: I hope it helps. Have a good day.

UNITED CHURCH OF CANADA

The Chair: The next presenter is Susan Eagle of the United Church of Canada. Good afternoon, Ms Eagle.

Rev Susan Eagle: I'd like to begin by introducing myself. I'm a United Church minister here in the city of London. I also work in an outreach ministry for the East London United Church outreach cluster. It's in that capacity that I want to speak to you today.

I know that earlier today you heard from Neighbourhood Legal Services, which provided you with a fair overview of technical details and legal issues related to Bill 96. I would like to elaborate on that in terms of the context in which those legal agreements take place between landlords and tenants.

It seems to me that we need to look at housing from the perspective that it is not a want but a need and therefore we have people who have to acquire housing no matter what their income.

The context in which tenants often look for housing is a context of need, vulnerability and political imbalance, and I mean political in terms of the small "p," a sense of not having the same kind of power as others may have.

The United Church has for a long time taken the position that housing is an important issue for people in terms of stability for their lifestyle, that it affects them emotionally and spiritually and psychologically as well as physically. As well, the United Church has for many years taken a position around equity in relationships and the importance of justice when people are in a negotiated relationship.

As such, when I look at Bill 96, I see that there is an erosion of what little security tenants have now and an increase in insecurity around protection, around affordability and around maintenance issues.

I'd like to go through several areas of the bill that I have identified. Because time is short, I'm only going to pick some of those areas.

The issue of affordability: the loss of rent control for tenants moving for the first time into a rental unit, and I'm sure that many other speakers ahead of me have identified the problems connected with that. Not only is it rent increases for new tenants but rent deemed lawful after a year, illegal rents, a one-year time limit for tenants to take action.

1440

In this particular area I have personal experience as an outreach worker at the Cheyenne Apartments here in the city of London. It was after tenants who did not speak English had lived there for three or four years that we were able, first of all, to discover that they were paying illegal rents because of the language barrier, and then able to pull together the kind of documentation and information that was necessary for us to proceed with an application around ascertaining the proper rents. A one-year time limit would have made it impossible for those tenants to have justice.

There's a reference to the repayment of illegal rents in section 134, but it does not say in the bill whether the tenant would be provided interest on rent paid that they shouldn't have paid or whether any of their costs would be covered. I don't think it's anticipated in the bill that their costs would be covered, yet it is a cost for them, as it was at Cheyenne when they tried to get legal rents set.

I never lose a chance in front of any housing committee any government has to raise the issue that I think there should be a licence for landlords and that that licence should be revoked whenever a landlord is not performing their job as a landlord properly. We license elevators. Why wouldn't we license housing?

Around maintenance, the other issue I'd like to raise is intimidation of tenants. That's a very real experience in the community. I don't care what you put down in black and white on a piece of paper around the rights of tenants; intimidation of tenants is a very real thing and it goes on in this community every single day. That's not to say that all landlords are bad. In fact, we have very many good landlords. But again, if you remember the context in which I mentioned that poor tenants are often negotiating out of a position of powerlessness, it's not the affluent tenants who have the problem of intimidation; it's the poor

tenants, and those are the ones I work with. This bill covers all tenants and it needs to take extra care to look at the vulnerability of impoverished tenants as they try to deal with maintenance issues and feel the intimidation of a landlord.

On security of tenure, I know that many folks have already raised the issue of the revision of the Human Rights Code, which would allow further discrimination around salary or income levels for tenants. I'm going to pass that on because I know that's been addressed by others.

There's another section in the bill, subsection 8(5), which talks about tenants not paying rent until they have received a copy of the lease, if there is a written lease, and that at such time as they receive the written lease, they are to provide any rent they have been able to withhold up to that point.

My question is, is there any time limit on how long it takes the landlord to provide that written lease? Also, why isn't a written lease required? Very often, when I've tried to sit down with tenants and sort through with them what agreement they have with the landlord if there's not a written lease, it is very confusing for them to understand what they agreed to, what they're supposed to be paying, what other conditions they've agreed to and the difficulties they have then in trying to unravel that. It's very difficult for someone who is trying to give them support to assist them in that.

Landlord access to tenant's unit: Bill 96 creates an atmosphere of access to tenants' space. There's emergency, repair and purchase. As access, those are acceptable, but consent — "if the tenant consents to the entry at the time of entry." You're talking about tenants who may be quite intimidated.

Termination: if "one of them has given notice of termination to the other." I know the legal clinic brief also looks at the weaknesses of that.

There's another part in the act that says for whatever "other...reason for entry specified in the tenancy agreement." I'm certainly hoping that someone from the government side can give me an example of "whatever other...reason for entry" could be specified in a tenancy agreement. It seems to me that leaves the door wide open for all kinds of access.

Landlord access to tenant property: If "the tenant has vacated or abandoned," after 30 days the landlord has access to the tenant's property for personal use or sale. The tenant is to be paid minus the landlord's costs if within six months the tenant decides to ask for his or her valuables back. By whose calculation are the landlord's costs assessed? That's not made clear in the bill, but I also have a problem with the whole idea that the landlord can move in and access the tenant's personal belongings.

Resolution of disputes, landlord-tenant agreements to vacate: The tribunal can simply move on a landlord's coming in and swearing a statement saying that the tenant agreed to vacate, and hasn't. I think that's open to a huge amount of abuse, especially where you have an imbalance in the relationship between landlord and tenant.

The membership of the tribunal: I have some questions about whether or not there will be balance of landlord and tenant sensitivity for those who are on the tribunal. What kind of tenant experience will be expected of those who serve on the tribunal? Will there be an independent selection process? The tribunal is supposed to give notice to tenants and information to landlords and tenants. It is not made clear in the bill how this will be done. How will tenants be educated and kept informed?

Fees: Section 159 refers to fees for applications, forms, notices etc or "for other services." Are impoverished tenants who live on maybe \$500 a month going to be asked to pay fees to access a justice system around their housing?

Mediation: I've taken training in mediation. I know that certain criteria must be in place for mediation to be effective. It presumes that you can create a balance in the relationship between those who are being mediated so that there can be something that is negotiated. How does the bill anticipate that mediation can proceed in a way in which power and balances are addressed? Will the tenant have an option of mediation or an option not to have mediation? How will their right of due process to perhaps go to court be protected? Will there be impartiality or independence of mediators?

I'm at a point where I wanted to say some good things about the bill. I don't know if I've got any more time.

There is the section that requires landlords to maintain their property in a good state of repair that I can affirm; that the landlord is not to "harass, obstruct or coerce" tenants, section 27, I can affirm. The power of the tribunal to authorize repairs: Historically it has been a great difficulty for us, in dealing with slum housing in this city, to get repairs done, so I can affirm that part of the act.

The vital services, section 136: Again our experience of trying to protect vital services for tenants in the community was very difficult and we had to have a private act that will then allow the city to pass a bylaw here for the Vital Services Act. I can support that, although I know that immediately after the city's passing a bylaw for vital services in this city, some of our worst slum landlords moved to sever the hydro from the rent so that the tenants had to pay the hydro themselves. In my personal opinion, the tenants were never compensated for the loss of hydro in their rent.

Something I can also affirm is the concept that the tribunal may view the premises. I think there are a number of places that it would be very educational for tribunal members to go and visit and see what kinds of conditions people have to live in.

Finally, I believe there's a need for written leases with tenant copies, a need for inspection forms when tenants move in. That's not even addressed in the bill. There is a need for rent control to protect tenancies, and I believe seniors and those on fixed incomes are most vulnerable when you take that away. I don't believe there should be a change in the Human Rights Code, and tenants must be able to access the tribunal without the deterrent of cost.

That's my submission.

The Chair: Thank you, Ms Eagle. We have some questions, I'm sure.

Mrs Boyd: Thank you very much, Susan, for speaking out of your strong experience with the kinds of problems the most vulnerable tenants often run into. I would certainly agree with you that the real concern here has to be about the most vulnerable tenant. Many of these provisions are much less frightening if people can balance off the power of their landlord with the power of their dollar. It's people who don't have that power of their dollar who are most vulnerable and those are the ones we're most concerned about.

In the whole realm of things, can you tell us what you're most concerned about that creates a greater imbalance of power? Is it this issue of the discriminatory function around income or is it really the combination in the context of all the other things that have happened to the poor and vulnerable as a result of the policies of the government?

Ms Eagle: It's difficult to pinpoint any one thing out of the list I've given you. I was trying to pare it down so I had a manageable list, but I think it is the culmination. It's tenants knowing that when they go to see a landlord, first of all the rent may be jacked up, that they may have to take poor housing conditions as a tradeoff for affordable housing, that they may be turned away, that they may have to find co-signers etc.

Right now what's happening in this community is that landlords make deals with tenants. I can name a landlord in this city who jacks up the rent by \$100 and then knocks \$50 off if you don't complain about the conditions. But he also says you can pay your last month's rent over a period of time, and the tenant says, "Gee, that's the best deal I'm going to get." So they're actually paying over the legal rent, but because there are those other concessions by the landlord, they're prepared to accept illegal rents and do not complain about the conditions of the housing. They are also not prepared to complain because they don't dare. If they complain, they might lose some of those other benefits the landlord has made available to them, such as paying their last month's rent over a period of time, and they're scared about jeopardizing that relationship.

1450

Mr Tom Froese (St Catharines-Brock): Thank you for coming. I worked with the disadvantaged and the disabled in my community as well and some of the concerns that you have addressed are valid in each community. You spoke about equity, and you didn't say the word, but I would assume that in your position as a minister within your church you would want fairness as well. Have you spoken to landlords as well? You're advocating on behalf of tenants, and I can appreciate that. Have you spoken to landlords in your community with respect to what their concerns are? As you know, landlords aren't happy with this bill; neither are the tenants. Even though some might disagree, we've tried to find a balance, where that balance is. Have you spoken to landlords in your

community with respect to the disadvantaged and what they're willing to do? Actually in your community what is their feedback?

Ms Eagle: I have spoken to landlords in this city. In fact, I chair the city's housing advisory committee, which is composed of many different sectors of the community. In fact because there are so many different sectors represented on the housing advisory committee, they were unable to come up with a position on Bill 96 in order to come and address this committee. So we do hear from landlords, as well as from tenant groups.

My experience in this city has always been that the good landlords are prepared to do a lot for their tenants, yet you have slum landlords who are prepared to use every loophole that it is possible for them to go through to maximize their dollar and basically to let tenants hang.

Yes, there are bad tenants. Nobody's going to say that there aren't bad tenants. There's always a tenant from hell somewhere who is conjured in somebody's mind and they say this bill will address that need. In fact I don't think it will, but I think what it will do is penalize a lot of other tenants who are just struggling day to day and are just really scared about whether or not they're going to pay the rent and feed their kids.

Mr Duncan: Thank you for your presentation. Would it be proper then to paraphrase what you've said to us today as, first, you believe this bill will decrease the supply of affordable units from a broader perspective and, second, you concur with a number of the amendments that were proposed earlier by the Neighbourhood Legal Services with respect to aspects of the bill? Would it be fair to paraphrase what you've presented to us that way?

Ms Eagle: Yes, it would.

The Chair: Thank you very much for coming.

ST MONICA HOUSE

The Chair: The next presenters are from St Monica House, Bobbi Bryx, Linda Robson and Melinda McCooye. Good afternoon. You may proceed when ready.

Ms Bobbi Bryx: Thank you for the opportunity to present concerns regarding part IV of the Landlord and Tenant Act and the proposed Tenant Protection Act on behalf of St Monica House.

Let me introduce our team. Melinda has been a resident at Monica-Ainslie Place with her son, Austin, since 1996. Austin is 13 months old. Linda Robson is a housing assistant working at Monica-Ainslie Place. My name is Bobbi Bryx and I work in the position of finance and administrative assistant. Since none of us is an experienced speaker, we appreciate your patience. As you have noticed, English is not my first language. Please do not hesitate to interrupt in case I am not expressing myself clearly.

I will briefly outline the objectives and background of St Monica House and Monica-Ainslie Place. Linda will provide you with some examples of actual incidents which happened at Monica-Ainslie Place, prior to the Residents'

Rights Act and after, which illustrate our concerns. Most importantly, Melinda will share with you some of the frustrations and fears of young single moms living at Monica-Ainslie Place. We have also prepared a submission in writing which describes our concerns in greater detail. We plan to leave some minutes at the end of the time allocated for our presentation in case you have any questions.

St Monica House opened in 1968 as a maternity home for pregnant adolescents in Waterloo. St Monica House is a charitable organization which operates on a not-for-profit basis. Our second location, Monica-Ainslie Place in Cambridge, opened in 1992. Over a 29-year period our services have expanded to include programs for single mothers and their children. We serve annually around 300 single pregnant women, young mothers and their children.

Being a first-time parent is never easy, less so for a young person who is often alone and without emotional support and financial resources. It is almost overwhelming. St Monica House is here to help. We provide a residential program for pregnant young women, new mothers and their children. Our programs focus on various concerns, including health and safety, nutrition, drug awareness, parenting and life skills, decision-making and problem-solving. We have an accredited school program operated by the Waterloo County Board of Education. We strongly believe that education and psychological support are important ways to help our clients and their children on their way to independence and a safe life as respected citizens in our communities.

Monica-Ainslie Place is a building constructed with close cooperation among the Ministry of Community and Social Services, the Ministry of Municipal Affairs and Housing and the board of directors of St Monica House. The apartment building consists of 15 small furnished two-bedroom apartments, a resource room and a nursery. The building was constructed for the purpose of supporting single young mothers and their children. The average age of the residents in the building is only around 17.

Clients are encouraged to develop independent lives as they gain confidence in their ability to live on their own. We are primarily a provider of services, but we recognize that our clients need safe and secure housing for themselves and their children in order to benefit from our services and to be responsible parents.

We have four main concerns with part IV of the Landlord and Tenant Act and the proposed Tenant Protection Act. They are:

First, current exemptions from the Landlord and Tenant Act. Our concern is the exemption currently defined as for the sole purpose of providing therapeutic and rehabilitate services if the average length of occupancy is less than six months. Six months' limitation is not appropriate, as most programs cannot have a real influence upon residents within such a short period of time. The Tenant Protection Act improves the scope of this exemption, including increasing the minimum length of occupancy to one year. However, it still refers to "therapeutic and rehabilitative"

services, which do not have a clear legal definition and are often a matter of subjective interpretation.

Our recommendation is to replace the words "rehabilitative or therapeutic services" with the words "care services."

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Our second concern is visitors. St Monica House has currently very limited rights to restrict access to premises by visitors to Monica-Ainslie Place. Visitors often represent an external threat to the residents and can seriously disrupt life in the building. The client population we serve is extremely vulnerable, particularly as there is at least one infant or toddler and a young woman in each apartment.

Our recommendation is that a provider of care services in a care home ought to be entitled to restrict the time and circumstances visitors are permitted in the building and must be entitled to prohibit certain individuals from entering the building.

Our third concern is around eviction, because the current eviction procedure under the Landlord and Tenant Act is too lengthy and complicated to evict a resident whose lifestyle or whose visitors threaten the safety and security of other residents.

Our recommendation is to introduce a fast-track eviction process for the operators of a care home when a tenant in default is thought to be a threat to other tenants or staff of the landlord. In the alternative, an interim removal process along the lines suggested by the Ontario Non-Profit Housing Association would be appropriate as per recommendation 23 of the June 15, 1997 submissions.

Our fourth concern is program attendance. Since Monica-Ainslie Place programs are the essential reason for living there, we would like to be able to evict those residents who have no intention of taking advantage of offered programs. The housing offered by Monica-Ainslie Place is very scarce. We believe the grounds for termination should be expanded to address the unique circumstances of our supportive housing arrangement. The demand far exceeds our ability to provide service and, as such, we must prioritize applicants. The various programs offered at Monica-Ainslie Place form the foundation of our care services and our inability to implement consequences for not participating in the programs negatively impacts the motivation of others to attend groups and/or the overall benefits to those who do attend. The description of our programs is in the written submission.

Allowing us to evict in this circumstance also creates an opportunity for other young women and their children to find a home that would not otherwise be available. Our recommendation is that the Tenant Protection Act must stipulate that the operator of the care home is entitled to evict a tenant who no longer requires or does not wish to participate in the program of services administered within the care home. In the alternative, the approach suggested by the Ontario Non-Profit Housing Association may be appropriate as per their recommendation 19 of the June 15, 1997 submissions.

Linda, maybe you can provide the committee with some real incidents you have experienced during working at Monica-Ainslie Place.

Ms Linda Robson: I have been working at Monica-Ainslie Place since its opening in August 1992. I have experienced administration of the project before Bill 120, when we were exempt from the Landlord and Tenant Act, and our present operation under the act.

Before Bill 120, we had a situation when one resident who was on probation for drug abuse had a regular male visitor who was suspected of providing and selling drugs to various clients in the building. This situation constituted a huge problem for the building as some of our clients have a history of substance abuse. Further, this visitor and his accomplices intended to organize a prostitution ring where some of the clients would be driven to Toronto and paid for their services in drugs. We cooperated closely with the police department. After various counselling sessions with the resident, she was given a last chance to break up with her boyfriend and to stay away from the drugs. She knew that if she breached the contract, she would have to move out, and that's what happened. She left the building within three days of the last incident. She received support from our staff during these three days, and alternative accommodation for her and her son had been arranged in cooperation with her social worker.

The current prescribed process of eviction under the Landlord and Tenant Act — mainly its length — would have had extremely damaging results on all of Monica-Ainslie Place. We have learned in the five-year history of Monica-Ainslie Place that our program either is very much appreciated by our residents and they are sad when moving out — and many of the past residents still keep in touch — or our young residents do not want anything but housing and they are not willing to adapt and change their lifestyle.

Now I will be talking about the incident which happened after the Residents' Rights Act was introduced. One 16-year-old tenant befriended a group of very young males without a fixed address. She was letting them into her second-storey apartment window and they were terrorizing other tenants at all hours. They were living off the resident's family allowance, creating serious budgeting problems, leading to malnutrition of her infant son. It is of note that during this time period, a VCR and television intended for the use of tenants was stolen from the resource centre.

We had numerous meetings with the resident. We had tenant meetings where other tenants were expressing their discontent with the behaviour of her and her so-called friends. Family and children's services was involved. It took us over three months of intense work to have the resident move out after her baby had been apprehended by family and children's services. Our human resources are very limited and this incident preoccupied our staff, compromising other programs.

Now, Melinda, you might want to share with the committee some of your comments and concerns.

Ms Melinda McCooye: The climate of everyday life at Monica-Ainslie Place can dramatically change with a new tenant or a new boyfriend or a new group of friends. While some tenants are working hard, learning as much as possible, finishing high school and planning their and their child's future, others do not do anything but party. It is so awful when they bring to the house anybody they meet in a bar or their visitors wake up the whole house at night, when you can smell drugs from their apartments, hear screaming, loud music, or when an unpleasant odour is coming out of their apartment due to lack of care. We have a system of written complaints but it is frustrating when we submit a signed complaint and staff is telling us that the process of eviction is so lengthy or that they simply do not have the right to stop someone from doing something that destroys my right to a peaceful and safe environment. I would like to tell you about one example.

Not long ago there was a boyfriend who we knew was a drug dealer. Some tenants overheard him doing drug deals over the phone on the main floor in the building. He threatened several tenants by saying he would break their legs if they reported his actions. Tenants asked the staff to prevent him from entering the building because we were afraid. In addition, he was abusing his girlfriend and her child. We tried to talk some sense into her but she would not listen. Staff served him with a trespassing notice prohibiting him from entering the building, but we knew that his girlfriend was leaving the side door open for him and was sneaking him in during the night. People who saw him were terrified to call the police because of his revenge. It took a long time but staff convinced the tenant that Monica-Ainslie Place was not for her or her lifestyle and finally, to everybody's relief, she moved out.

We were blaming staff for not caring enough until they explained to us the legal aspects of the eviction.

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It is very hard for me and the other residents to make a life for ourselves and our children. We do not want to be dependent and we want our children to have a better life. I really appreciate that Monica-Ainslie Place is available to me and other young women. However, I am really worried that even though public money and volunteer effort go into making Monica-Ainslie Place a home for us, the law does not give St Monica House the power to make sure that our rights are protected.

I and the other residents who want the help that St Monica House offers have the right to a safe and peaceful place to live. That is the purpose of St Monica House. I am asking you to change this law to make sure it will happen.

Ms Bryx: Before the end of our presentation, I want to stress that Monica-Ainslie Place is a partnership of volunteer time, public money and committed professional service providers who can work to improve the lives of the young women and the children we serve. However, this partnership cannot succeed unless we have the legal tools necessary to make our program work.

Monica-Ainslie Place is not an apartment building; it is a residential setting designed to implement a program of services. This program of services is the reason we exist and the reason we receive public money. We are asking that the government implement the changes we have suggested, because a balance only really exists if the rights of the individual tenant are properly balanced with the individual landlord and with the interests of the community of tenants within the building. An equitable balance can be struck only if the interests of all three parties are weighted.

I wish to express on behalf of St Monica House our appreciation for this opportunity to make this deputation and I invite any questions you might have.

The Chair: Thank you for coming. Thanks for bringing the fourth presenter too. The baby has livened the place up. We have time for one question and I will give that to Ms Boyd.

Mrs Boyd: Thank you very much for coming to talk to us. As I think you know, when we put in the tenant protection, it was certainly alerted on behalf of the second-stage housing groups that there was this concern, and I think our party had made a real commitment that if experience showed that this was disruptive of the programs, that certainly wasn't the intention. I think you understand that our problem was trying to distinguish between your very specific needs in terms of that and the overall problem that people face in care homes, as identified by Ernie Lightman. It's a fine balance here.

My assumption is that what you'd really like to see is the kind of provision that is quite specific in terms of the kind of agreement you have with your residents and the kind of program that you offer.

Ms Bryx: Yes, that's true.

Mrs Boyd: Rather than the boarding-house situation that was so painfully outlined by Dr Lightman.

Ms Bryx: Yes. We have residents in Waterloo exempted from the Landlord and Tenant Act, and we have never taken eviction lightly. It's a policy which goes from direct care workers to case conference to the program supervisor to the program director up to the executive director and directors of the board. We are there to care for our clients, not to punish them. But unless clients themselves would like to be helped, there is no way to force them.

The Chair: Thank you for coming and making your presentation this afternoon.

Mr Duncan: Can I pose a question to the parliamentary assistant to the ministry at this time?

The Chair: I don't know where he is.

Mr Duncan: I can just place it and perhaps have it answered. The specific issue that was raised was a definitional issue and it related to clause 3(k). I will ask the ministry to give us a response to the issue that was raised on that definition. I went back to the definitions section in the act and we're talking about the difference between care service and therapeutic or rehabilitation service. If I could ask for the ministry to provide us with its opinion on

that definition prior to clause-by-clause, that would be helpful.

LONDON PROPERTY MANAGEMENT ASSOCIATION

The Chair: The next presenter is the London Property Management Association, Brenda Trineer and Joe Hoffer. Good afternoon, sir.

Mr Joe Hoffer: Good afternoon, members of the committee. I'm Joe Hoffer and I'm appearing here today as a representative of the London Property Management Association. Brenda Trineer, president of LPMA, is seated to my left.

LPMA has a membership of nearly 300 landlords, property managers and other industry associates. The organization is 30 years old this year and is dedicated to the education of its members and to promoting professionalism within the landlord group in London and region. LPMA is also a member of the Fair Rental Policy Organization of Ontario, which is an umbrella industry group on behalf of landlords. LPMA participates with other regional landlord associations on issues such as a review of the proposed Tenant Protection Act. Because their members are so directly affected by this legislation, we thank you for the opportunity to come here today and make this presentation.

We're going to focus on those areas that LPMA has concerns with in the legislation, recognizing, and we'd like to at least express, that there are many positive aspects that we see with this legislation. But we're going to highlight a number of concerns for you at this point. The concerns can be divided into two groups. One is on the rent control side, the other is on the landlord and tenant side. I'll deal first with the rent control concerns.

The first deals with loss of maximum rent on tenant turnover. Those of you who have some familiarity with the London rental market will know that from a landlord's perspective London has one of the worst rental markets in the province. There are very high vacancy rates, there is ample supply of affordable rental housing and landlords are competing very aggressively with each other to secure tenants into their buildings.

This rental market is not the product of rent control legislation. This rental market is the product of economic and market forces, the laws of supply and demand and so on. In effect, London is a rental market that does not have rent controls. The submissions you've heard from other people about how this legislation is going to result in increased rents is a misrepresentation, in my submission, and anyone who studies the London market will learn that very quickly.

In any case, under the Tenant Protection Act, tenants entering into new leases with landlords are going to enjoy all the benefits of this soft rental market. They're going to have good rental incentives and they're going to rent at low rents. The problem that LPMA has with this legisla-

tion is that, once the tenants are in, they're subject to very strict rent controls and that depressed rent will remain that way as long as the tenant is in the unit. Any prospects for improvement in a recovering rental market are lost as far as those tenants are concerned. If the market is going up, those tenants will be less likely to vacate and so the landlord is in a position of having chronically depressed rents. That is a phenomenon that has been in this province for 20 years, particularly in the Toronto area.

For landlords, the decontrol-recontrol policy will frustrate the hope of any improvement. The only thing that would ameliorate that situation somewhat is if maximum rent continued to be a feature of this legislation. Because this legislation proposes to abolish maximum rent, there's no hope there.

What we're asking, particularly in light of the fact that landlords under the NDP legislation worked so hard to build their maximum rents, is that this committee recommend that maximum rent be preserved for all rental units not otherwise exempt from rent control so that landlords operating in depressed rental markets such as that in London are able to recover in future years, at least within the space given by their maximum rent.

Another area of great concern to London landlords is the rules which govern rehabilitation of existing rental housing stock. The rules set out in this legislation require a landlord to pay up to a three-month rent penalty if they want to make improvements to a building or repairs to a building which require vacant possession. They have to pay this rent penalty and they have to offer a right of first refusal to the displaced tenant to come back into the unit at the same rent that was there when they left.

1520

No landlord in their right mind is going to make these kind of improvements or renovations in the face of those policies. It's absurd. What we're asking is that the committee recommend that the proposed statutory rules governing renovation and repair where vacant possession is required be changed to ensure that landlords will not be penalized for undertaking such substantial investments.

The suggestion we've given to you in our written submission is that there be an expedited phase-in of the cost recovery for the expenditures that the landlords have incurred on those units, that part of the cost recovery include any rent penalty that you may deem appropriate and that the right of first refusal to the vacating tenant remains.

Another provision deals with a 4% cap on landlord and tenant agreements. LPMA is opposed to that 4% cap as a threshold. In situations where a landlord and a tenant agree to certain improvements and agree on the amount of rent increase that can be made, there should be no intervention by the government. There's no reason for it. The legislation contains ample consumer protection for sitting tenants in those negotiations and allows a cooling-off period. It provides for statutory notices and, in my submission, if a tenant wants and can afford those improvements,

there should be no regulatory barrier to the tenant obtaining those improvements.

Another offensive feature of this legislation concerns an overlap between administrative offences and quasi-criminal offences. The classic example is the tenant harassment provision. Putting aside its vagueness, there is one provision in section 33 which allows the tribunal to impose up to a \$10,000 administrative fine for a landlord who is found liable or guilty of an offence.

There is another section in the same legislation which for the same conduct will impose up to a \$50,000 fine. That's double jeopardy. It has long been recognized in states which have a rule of law as being illegal and, in my submission, it's unnecessary. You can provide for adequate remedies to the tenant under the administrative provisions without imposing the fine. If a fine is thought appropriate and necessary, then you've got the quasi-criminal provisions in section 194 to impose that penalty. But the landlord should not be penalized under both sections for the same conduct.

LPMA fully supports the position taken by the Fair Rental Police Organization of Ontario with respect to the amendments which would allow landlords to use creditworthiness as a basis to assess tenants. The 30% rule that people have been touting is largely ignored. It's one factor. It's not 30%. It will vary depending on a lot of factors. But to suggest that landlords should not use creditworthiness as a basis for assessing prospective tenants is absurd, and I'd ask that you reject submissions that propose to do away with that provision.

Under the general heading of landlord and tenant issues there are three areas of concern.

The first deals with the provisions which water down the current requirement under the Landlord and Tenant Act for payment of rent arrears into court as a precondition of the hearing of a landlord and tenant dispute. Under the Landlord and Tenant Act today, our experience — and this is with a small minority of tenants, believe me. It's not the tenant population generally — but on those matters which go to a hearing tenants avail themselves consistently and the word gets out among that group that the way to really save yourself a lot of money is: File a dispute, don't pay the arrears into court, delay the process as long as you can. The landlord will get a judgement after three or four months, but so what? He can't collect. He can't do anything about that judgement.

Landlords, on the other hand, want to stop the bleeding. They want to deal with the process as quickly as possible and they want those arrears paid in. The existing provisions of the Landlord and Tenant Act are working well in requiring that tenants pay the arrears into court before a dispute will be heard. This statute proposes to water that down, and we're asking that this committee recommend to the Legislature that the existing provisions of part IV of the Landlord and Tenant Act be incorporated into the Tenant Protection Act so that tenants are required to pay arrears into court pending a hearing.

A second area of concern involves the proposal in the Tenant Protection Act which would allow the tribunal to stay indefinitely the enforcement of an eviction order. Our experience has shown that where that power exists it will be used and if an eviction order is stayed indefinitely, then that means the tenant can stay in the unit, they can pay their arrears into court or into the tribunal any time before the eviction takes effect and then they're able to stay there until the next time they go into arrears.

We're asking that there be a limitation with a maximum of 30 days within which the eviction order can be processed and that you not give to the tribunal the discretion to extend that amount indefinitely.

The third area under landlord and tenant concerns involves the tribunal. I am sure you've heard these concerns before. We just wish to reiterate that it is particularly important if the tribunal is to be effective that it be perceived as fast, fair and impartial. In order for that to occur, we believe there has to be a rigorous recruitment and training process before this tribunal takes up its functions under this legislation.

We also ask this committee to recommend that the TPA be amended to ensure that all decisions of the tribunal be based on the true merits and justice of the case. Right now, if we go in front of a judge on a Landlord and Tenant Act matter the judge has that discretion. That's being taken away in this proposed legislation. We ask that it be put back into the legislation so that where there are circumstances which aren't caught squarely by the legislation — and those circumstances will occur — then the tribunal will have the flexibility to deal with those issues in a fair and fast manner.

Those are the submissions we wish to make. Those are our concerns. If there is time, both of us would be pleased to answer any questions that you may have.

Mr Duncan: Thank you very much for your presentation. It will be most helpful when we go to clause-by-clause and start looking at some amendments.

One very brief point and one question: The chair of the Ontario Human Rights Commission in his presentation to the committee did not suggest that landlords — I'm not going to use a double negative — was not suggesting that landlords shouldn't have the ability to do credit checks. He was referencing specifically income source. The amendments that the official opposition will bring forward will reflect that position as well as other normal business practices that will be prescribed in the regulations in terms of checking into background.

I wanted to ask you a broader question, because a number of the issues you've raised have been well documented by FRPO and other landlords who have appeared before the committee. Because the London market is different from other markets — and I'm given to understand that it's a difficult market to be in as a landlord in some instances — the question I have, and I'm not trying to be argumentative here, is that the market is functioning under a rent control system in the manner of a free market. You've acknowledged that. Other landlords have sug-

gested that rent control systems take away a free market. I am having trouble reconciling those views that have been put forward.

We see in a system like London — and there are other communities: landlords in my own community of Windsor have put the very same case to me — that we're not at maximum rents. I wonder if you could take a moment to expound on your views on that. I'm sorry I'm not being more precise. It's sort of a general question, but I'd like to hear your views on that.

Mr Hoffer: I think I understand it. I think you're asking me to reconcile the two perspectives that have been given to you. First of all, let me point out that London is like many other rental markets outside the Toronto area. The perception by the London landlords and many other landlords in other communities — and we converse with them and consult with them — is that this legislation is primarily targeted at the Toronto market, but because it's provincial legislation we all have to go along with it.

In terms of reconciling those two positions, it may be clearer if you have an opportunity to review my paper more closely, but essentially a landlord is by nature I think optimistic, like any other investors. They're hoping for improvements down the line. Today in London a landlord is going to rent well below any controls that have been put on by rent control.

The landlord is optimistic. There's a sense of hope for the future that some day maybe things will improve and that their investment will ultimately prove to be beneficial.

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Without rent controls, that hope would stay alive. With rent controls, especially these rent controls, that hope is gone because the tenant comes in, the maximum increase is 3%; forget about it. There's no prospect of recovering it in a depressed market. I think that partially reconciles the two positions you're concerned about.

The only other area I can think of is where you have a building that has historically chronically depressed rents. That is a small minority of buildings, but there, obviously, as long as rent controls continue to stay on, the landlord has no opportunity to really do anything to ameliorate the situation. For those landlords, and it's a very small minority, this legislation actually will be beneficial because when the unit does become vacant, at least they'll have the opportunity to catch up. Without rent controls at all, they could take advantage of that opportunity.

Mrs Boyd: Thank you for your presentation. This issue around maximum rents is one that obviously is going to be of concern. It was in the legislation that our government passed particularly because of the very strong representations that had been made about the need to deal with that if indeed the economy recovered to that extent.

I was interested in what you had to say about the tribunal. I just want to make sure I'm clear on the point that you were making. The "fast, fair and impartial" I think everybody wants, and we've heard that from most of the speakers. But I think I also heard you say that you want

them to have quasi-judicial power in terms of fact-finding. Is that correct?

Mr Hoffer: Yes.

Mrs Boyd: That's the first time I've heard that stated quite as succinctly. I agree with you. I think that's a necessary part of the function. One of the concerns people have expressed about it being taken out of the court system is that the fact-finding ability might not be there for the tribunal, so I think that's a good point.

Mr Harry Danford (Hastings-Peterborough): Thank you for the presentation. You spoke of the high vacancy rate in this area, but regardless of the situation, wherever that would occur in the province, certainly market conditions dictate the cost of apartments, right?

Mr Hoffer: Yes.

Mr Danford: Without exception. Any individual, regardless of their financial situation, could actually have the opportunity to have a higher level of accommodation at a lesser cost, regardless of where it is in Ontario. You'd agree with that, I presume.

Mr Hoffer: It opens the door for a higher quality of accommodation at a lower cost.

Mr Danford: The other point I'd like to make is that we talked about the tribunal and Mrs Boyd already mentioned some points. One of the other things that has been mentioned to us is that certainly the tribunal should represent geographically and not cause a problem that tenants or landlords have to travel a long distance. Would you agree with that principle?

Mr Hoffer: Absolutely. These concerns that I've listed aren't exhaustive, but it's very important that tenants and landlords have full access. If a single mother has to commute in order to go to the place to have a hearing, that person is not going to be able to go there, and before long it's a systemic problem that will have to be changed. That means more funding, more staff. Let's deal with it up front, recognize it, and solve the problem before it arises.

Mrs Munro: You made reference to the need for landlords to have information in order to make the assessment on the issue of a particular tenant's ability. Certainly this has caused a great deal of discussion within the hearings at this point. People have talked about credit rating and tenant history, as well as income.

I wonder if you see any kind of priority of one piece of information over another, given that there are circumstances where an individual may not have either a credit rating or a tenant history. Many people have raised the issue of their experience under the current legislation, which appears to allow for discrimination.

Mr Hoffer: People who don't have any credit history don't pose nearly the problem for landlords that people who have credit histories do. It's when you see a series of judgements on a credit report and people clearly having financial difficulties and also wanting to pay 60% of their income towards rent that flags go up naturally, for the landlord and they'll be likely to reject that person in favour of someone who has a better credit history.

I wouldn't say that the lack of a credit history has a large bearing. It's a significant factor if you're dealing with young people. That's inevitable, because what else are you going to use to determine whether this person is going to pay? But typically that's resolved through asking for guarantors or something of that sort.

The real experience is that if someone is working, they have a job, they don't have a bunch of judgements outstanding against them, it's most unlikely that a landlord, particularly in this market, is going to have any problems with them.

The Chair: Mr Hoffer, Ms Trineer, unfortunately your time has expired, but we thank you for coming.

LONDON COORDINATING COMMITTEE TO END WOMAN ABUSE

The Chair: The next presenters are the London Coordinating Committee to End Woman Abuse, Megan Walker and Laura Kovacic. Good afternoon. You may proceed.

Ms Megan Walker: My name is Megan Walker and I'm joined by Laura Kovacic on behalf of the London Coordinating Committee to End Woman Abuse. We're here to express concern with respect to Bill 96.

Specifically, the London coordinating committee recommends the following:

(1) Delete "income information" from section 200 of the bill. Section 200 would amend Ontario's Human Rights Code to allow landlords to refuse to rent to individuals on social assistance and other disadvantaged groups on the basis of income information.

(2) Amend section 200 to clarify that absence of credit records, credit references or landlord references would not be used to disqualify prospective tenants such as abused women whose records and references are in an abusive partner's name.

(3) Delete section 36 from the bill. Section 36 places the same provision into the Tenant Protection Act as section 200 places in the Human Rights Code. Adding this provision to the Tenant Protection Act is redundant and raises questions as to whether it would even be enforceable.

The London Coordinating Committee to End Woman Abuse is a network of organizations, groups and individuals in London dedicated to ending woman abuse through leadership and actions that achieve social justice for women. The London coordinating committee believes in a feminist approach to woman abuse. A feminist approach acknowledges that we live in a world where sexist ideas, attitudes and structures give rise to discrimination, violence and oppression of women. Ending sexism, along with other forms of oppression, requires that we all challenge abuses of power in individual and family situations, as well as within political, economic and structural systems. The London coordinating committee believes society promotes a fundamental inequity between men and women

and that it is this inequity that leads to the abuse and oppression of women.

Section 200 of Bill 96 will further deepen this inequity by placing women, and more specifically women who are victims of violence, in an extremely disadvantaged position in terms of their ability to secure affordable housing.

Section 200 essentially authorizes the use of minimum income criteria in tenant selection. Current data illustrate that if the most common form of income criteria, the 30% rent-to-income ratio, was applied universally by landlords, women would be the hardest hit. Specifically, 92% of young, unattached women, 82% of young mothers, 51 % of single mothers and 50% of single women would be disqualified from affordable accommodation. The potentially disastrous impact on women by authorizing the discriminatory use of income information should not be surprising. As a group, women in Canada are disproportionately poor.

By reducing the ability of women to access affordable accommodation, section 200 of Bill 96 will create a situation where low-income women are forced into homelessness or, alternately, into inadequate housing at inflated rents. Section 200, if implemented, will force women to remain in life-threatening situations. It will create one more barrier to safety for women who are facing violence from a partner. With affordable housing options so greatly reduced, women in these situations may have no alternative but to remain living in a dangerous environment.

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The Ontario government recently released a document entitled *Prevention of Violence Against Women: It's Everyone's Responsibility*. The Honourable Dianne Cunningham, minister responsible for women's issues, states in the document that "Preventing violence against women and their children is a key priority for this government."

Now is the time for this government to prove that preventing violence against women and children is indeed a priority. Eliminate any reference to income information in Bill 96. Show the women and men of Ontario that this government is actually going to do something to prevent violence against women and their children.

Home sweet home. To abused women, home is anything but sweet. It is not the safe haven that home should be. It is a prison. Abused women are sentenced to a life where they are maligned, humiliated, shunned, screamed at, pushed, kicked, punched, assaulted, beaten, raped, disfigured, and tortured. Some are given a death sentence, murdered by a partner they are taught to respect.

Picture in your minds for a moment an abused woman: a woman who for years has lived in fear, a woman who finally finds the courage to leave her abusive partner. She has no money. Her only choice is to depend on social assistance. She's learned to be very good at budgeting money. Of course, she's had to. Her abusive partner never gave her what she needed to feed or clothe her children, but she survived, barely. She understands the importance of paying her rent. To her, rent equates freedom, her highest priority. She knows better than anyone that failure to

pay rent means being sent back to a life with her abuser. That's not a life; that's merely an existence.

Section 200 of Bill 96 doesn't give her the chance to pay rent. She's been disqualified before she even gets to the starting gate. Section 200 denies her freedom from her own prison where she has received a sentence for the crime of being a woman.

One in four women experiences abuse by an intimate partner. These women are not strangers. They are our mothers, our sisters and our daughters. They are our friends and our colleagues. These women, those we know, those we may some day know, and those we continue to hear about, will suffer most if Bill 96 is passed as written.

There are many barriers that exist between women, particularly women facing violence, and access to decent, affordable housing. Bill 96 is just one barrier of many making their difficult circumstances significantly worse. Bill 96 is one barrier which can be easily removed.

On behalf of the London coordinating committee, I urge this government to take a proactive step in helping to end woman abuse. Delete section 36 in its entirety. Remove any reference to income information from section 200. Amend section 200 to clarify that absence of credit records, credit references or landlord references will not be used to disqualify prospective tenants such as women whose records and references are in an abusive partner's name. Do your part. The responsibility is yours.

We are happy to answer any questions and circulate our brief.

Mrs Boyd: May I ask how much time there is for questions, Mr Chair?

The Chair: Among he caucuses, 10 minutes.

Mrs Boyd: Thank you very much for your brief. You certainly put very clearly the issues around the income issues. Also, I don't think we've heard today the same concern about the problem when someone is leaving an abusive home and all of the credit checks would be tied to that abusive partner, so it's very helpful to get that picture.

I want to ask you a little bit about some of the security issues in this bill, because this bill allows a lot of access by landlords into tenants' property and forfeiture of tenants' property. There has been some real concern that when people are vulnerable in the way that abused women are vulnerable, it may make them even more vulnerable to a landlord than they may have been to their previous abuser. Would you care to comment on that?

Ms Walker: That's a very real concern to the coordinating committee. I'll comment first and, Laura, you may want to respond as well.

Women who leave abusive relationships have often come out of that relationship in complete isolation. They have had no contact with any friend or family member. They have had no opportunity to make decisions on their own. It is a huge leap and requires a tremendous amount of courage and bravery on the part of an abused woman to leave that relationship.

To have a stranger who has the ability to enter her residence, which she is now trying to make into a safe haven

for herself, is absolutely appalling and may be the one issue that would keep a woman at home in an abusive relationship. It creates yet another barrier to women's safety.

Oftentimes, because as a society we don't recognize woman abuse as the criminal act that it is, and because so many individuals in society fail to understand the issue, we feel as a coordinating committee that that provision will even allow the landlord to allow the abusive partner access to that apartment, which creates tremendous problems. There was a document recently released called *Woman Killing*, which was done through a number of different agencies, including the coroner's office. It indicated that an abused woman is most at risk of death immediately when she leaves the home. So those are some real concerns for us.

Did you want to add anything to that, Laura?

Ms Laura Kovacic: No.

Mrs Boyd: We've heard a fair bit from landlord advocacy groups about the rental situation in London and how available rental is. You've stated very clearly that, given the incomes that are available through social assistance, you don't see that as being the case. I know that not only as the director of the clinic and as a member of the coordinating committee but also as a city councillor you have some clear knowledge about what the rental situation is for low-rental housing. We're talking about affordable housing; we're not talking about the high end of the scale. Would you comment on that and how it affects the ability of women to protect themselves and their children in a safe home.

Ms Walker: First, there are so many contributing factors to keeping abused women in their homes currently. I must state that the coordinating committee has been quite disappointed with the current government's strategies in ending woman abuse. In fact, our public statement is that this current government has created more barriers which force women to stay in abusive relationships.

The 21.6% reduction in social assistance, as an example, creates huge barriers for women because it doesn't leave enough money for them to take care of their children adequately. Oftentimes there are children who require special assistance — who, for instance, have special education needs — and because those special needs are no longer available through the education system, they're having to put additional funds out to that.

I think you need to look at this in a more global package than on an individual basis. Certainly abused women need opportunities to access affordable, safe, secure housing and do not deserve to be discriminated against in accessing that housing.

Mr Gilchrist: Thank you, Ms Walker, for your comments and your presentation here today. Perhaps you could help me. Clearly we have a different perspective on this section. As it stands right now, it is absolutely, positively 100% legal for a landlord to ask about income. There is no statute and there is no reference in the Human Rights Code that prohibits that. You cannot discriminate at pres-

ent on the basis of the source of income, and this will not be changed in any way by this section.

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Let me ask you quite seriously about following scenario to take the example you have provided to us here: You have a woman who has left an abusive situation, who has perhaps not been able to develop much of a credit history herself — maybe the credit cards were in the name of the spouse — and similarly a tenancy history may or may not exist at all. Both opposition parties and certainly every presenter who has been asked the question so far in our hearings has said that the other business practices, asking for a credit check and asking for tenancy history, are reasonable. Would you agree with that?

Ms Walker: We don't object to that. What we object to is that because so many abused women, or we could expand that to include young people or recent immigrants, don't have a credit history. There is one additional point that needs to be made with respect to that: Because so many women living in abusive relationships are denied access to financial decision-making in their abusive homes, oftentimes it's the abuser who has created the bad credit rating, not the abused woman.

Mr Gilchrist: I accept, and as you have properly pointed out, it's a very complex situation. My question comes down to this: When the woman who is now seeking shelter turns to the two avenues that the other two parties have said are quite acceptable and would have absolute support for going forward, and the credit check comes back either non-existent or bad and the tenancy check comes back either non-existent or bad, do you not see the ability for the woman to say: "But by the way, I have been employed and I am currently employed. Here is what I make, and I would ask you to judge me by this third standard before disqualifying me on the basis of those other two"? Is that not an option that should be available to that woman?

Ms Walker: Of course that's an option that should be available. Unfortunately, with the amendment to section 200, you are restricting her in that involvement. If she is turned down on those grounds, she has no recourse to the Human Rights —

Mr Gilchrist: I'm going to have to —

The Chair: No. Excuse me. Your time is up.

Mr Gilchrist: You gave Mrs Boyd a lot longer.

The Chair: I'm not giving you any more.

Mr Gilchrist: Because you have to go to section 2 —

The Chair: Mr Gilchrist, it's Mr Crozier's turn.

Mr Crozier: Could you tell me very briefly me at what point your coordinating committee first comes in contact with an abused woman, or do you perform an educational function? Further to that, my specific question would be, do you then assist women who have been in abusive situations to obtain housing?

Ms Walker: Two questions. First of all, the coordinating committee is a body which represents 35 anti-violence agencies, so we are a leader in the field of anti-violence work. We're recognized internationally and we

provide education and advocacy on behalf of the whole issue of woman abuse.

Specifically when do we assist women? Each agency would assist women in different ways. I am currently the executive director of the London Battered Women Advocacy Centre, which is a member agency of the London coordinating committee, and there are a few points that need to be raised. First of all, demand for service from our agency is so high that we're turning away about 131% more women than we turned away at this time last year. Our demand for service is up 82% over the first half of 1996. So when women finally make the decision that they would like to change the circumstances in their lives or when women finally have the courage to change, they can't access services like ours that could assist them in making those changes.

Yes, the battered women's advocacy centre does advocate on behalf of women in these situations. The unfortunate piece is that they often can't get in to be served; and secondly, because we're so shortstaffed as a result of provincial cutbacks, we can't see these women for as long as we'd like to see them.

Mr Crozier: So many women who are in abusive circumstances have to go directly to the rental market themselves without any advocacy or intervention?

Ms Walker: That's right.

Mr Crozier: Finally, I simply want to make the statement that when statistics are mentioned that 25% of women live in abusive situations, I, like everybody else find that appalling. I come from a small urban-rural municipality and I'm sure it exists notwithstanding the fact that we're not a big city. I just want to put on the record that I find that appalling. Anything that creates a barrier to preventing it or reducing it is something we need seriously to pay attention to.

The Chair: Ms Walker and Ms Kovacic, I know we could talk on and on but unfortunately our time has expired. I thank you very much for making your presentation to the committee this afternoon.

Ms Walker: We have a copy of our presentation and would like to know where we should leave it.

The Chair: You would give that to the clerk, and the clerk will distribute it to the committee members.

LONDON HOME BUILDERS' ASSOCIATION

The Chair: The next presenter is the London Home Builders' Association: Ian Low, president, and Joe Hoffer, counsel. Mr Hoffer, we haven't seen you in 20 minutes.

Mr Joe Hoffer: Thank you, Mr Chair, members of the committee. I'm now here in the capacity of representative of the London Home Builders' Association. To my left is Ian Low, president.

The London Home Builders' Association was formed in 1952 and has a membership of approximately 220. The membership consists of builders, suppliers, renovators,

developers, apartment managers and owners and other industry-associated members.

LHBA, first of all, supports the comments made by the Ontario Home Builders' Association at the Toronto sittings of this committee, but we wish to point out that LHBA is involved in all aspects of the rental housing sector, and from London's perspective, we want to focus today on those provisions which, if amended, would improve the situation for the constituency of the London Home Builders' Association, particularly those who are involved in the rehabilitation and renovation sectors of the construction industry.

If you saw the London Free Press this morning, you may have noticed that there were zero multiresidential construction starts this year and very few last year, and we don't expect that to change, given the existing rental market in London, with the oversupply and the lack of tenants. However, there is room for movement and for productivity in the renovation portion of the construction industry in apartment buildings. Our comments are directed at that particular sector.

As with the LPMA presentation, we have formulated areas of outstanding concern. Some of them mirror that which I gave a short time ago, and I won't go into great detail, but I would like to point out that from London Home Builders' perspective the policy of decontrol, re-control and the loss of maximum rent is also a concern. It's a concern because it ensures that tenants moving in in a poor rental market will be able to preserve that chronically low rent indefinitely as long as they stay in the unit. From an investor perspective, an investor is far less likely in those circumstances to invest a lot of money in an apartment building because there is no prospect of a return. If you preserve maximum rent, at least there is a prospect of a partial recovery over the longer term when the market improves. That, in combination with maximum rent, is the first area of concern.

The other area, and I think this affects the home builders' constituency as much as anything, is the policies which deal with renovation and reconstruction of existing rental housing stock.

There is no question that there is a narrow band of buildings in London that need work done to them. There is also no question that the renovation policies that are enshrined in the Tenant Protection Act will discourage that type of investment from occurring. Basically what will happen is that there will be patch work done until such time as the Legislature sees the folly of these provisions and amends them. We are asking that this committee recommend that the Legislature do away with the three-month penalty, do away with the provision which requires the landlord to reread the unit at the same amount after thousands of dollars have been invested into the unit and put in its place legislative provisions which would allow the rent to move more rapidly towards market with a right of first refusal to the tenant, some sort of phase-in, but not with the 4% cap or the long phase-in period that is set out in the legislation today.

LHBA feels at a substantial disadvantage here in not having seen the regulations to this statute. The statute, like much provincial legislation today, has a broad framework, but because so much is left to the discretion of the Lieutenant Governor in Council, it's very difficult to comment on the substance of the legislation. We just wanted to point out for the record that that is a disadvantage and we encourage this committee to recommend that regulations be formulated well in advance and that there be an opportunity for industry groups to be consulted when those regulations are being formulated.

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Again, we'll raise the issue of the need for a fair and impartial adjudication system. You have heard my comments on that. It's in this brief, so I don't go into that again as part of this presentation.

Finally, an item of great concern to London Home Builders' Association is the need to address fair tax increases and red tape reduction as part of an overall strategy to improve the health of the residential rental sector. If you look at the broader legislative strategy that we believe exists, we've got the Tenant Protection Act, which is addressing one area of concern, and we also have the Fair Municipal Finance Act and the work of the red tape commission. The work of the red tape commission has been started, and we fully support that work. We are asking that the Legislature ensure that the work continue and that any benefits that may be obtained through changes to the Tenant Protection Act and through this legislation not be offset by problems that are created by other legislation now before the Legislature. So, first of all we encourage the continued work of the red tape commission.

We also ask that the Legislature be vigilant to ensure that the municipalities don't abuse the benefits that have been obtained through the streamlining process. For example, if the province streamlines certain processes that developers have to comply with, it's not going to be much of an advantage if the municipalities turn around and impose fees for their services which effectively offset the benefits obtained through cutting red tape.

Second, the Fair Municipal Finance Act is one of great concern. It will give municipalities broad powers to determine the applicable tax rates for different property classes and, as I'm sure this committee is aware, for many years the multiresidential housing sector has borne the brunt of tax increases among the residential sectors generally. In fact, it may interest you to know that for many years it has been illegal for landlords, under provincial law, to levy property taxes directly to tenants. In those circumstances, tenants are less likely to equate property tax increases with increases in their rent. But as things stand today, the taxation level on multiresidential tenants is nearly double that on residential taxpayers. That situation has to be addressed, and we're asking that you ensure, when that legislation comes through, that it is addressed in the fair municipal finance legislation.

We also encourage the province to take a stronger role in facilitating greater property tax equity between classes,

if it's demonstrated that municipalities are not setting fair tax ratios under the new property tax legislation, that the province retain some residential ability to deal with that in an effective way.

Finally, LHBA is concerned about the proposals for the new multi-residential property class. That has an eight-year life. Lending institutions lend on the basis of a 25- to 30-year life. They're not going to be impressed by the fact that there's a partial tax holiday for eight years, because at the end of the eight years that building could go down the tubes, especially if it's multi-residential, due to a substantial tax hike. There needs to be greater security for that particular class and we would ask that you keep that in mind.

That concludes the comments I wanted to make today. Mr Low and I would be happy to answer any questions if there is time.

Mr Gilchrist: I appreciate your presentation and your pointing out again that landlords also have concerns with the bill, that it is not one-sided. In fact, the purpose of these hearings is to glean from both sides ways that we can make this better.

I also want to thank you very much for pointing out that this is just one small piece of a far bigger puzzle: trying to ensure there is an adequate housing supply across this province. The reforms we have brought to development charges, that we'll be bringing forward this fall in the Ontario Building Code, will ensure greater access for the disabled, and a number of other improvements to help conform with the national building code, and as you mentioned, the red tape and the fair tax issues.

Let me ask you a question. Would your association have a problem, as new cost savings are found by municipalities, particularly those related to the Who Does What transfer — and I pointed out earlier this afternoon that if one of two paths is taken by the municipalities, not us, in terms of the education tax, Middlesex county on January 1 automatically comes out \$2.9 million ahead, not behind. They get a gift of \$2.9 million ongoing as a result of these transfers. But leaving aside how much or whether it comes from municipal restructuring or as a result of the transfer from the province, do you have a problem with the concept that all the savings flow to the apartments until such time as the fairness is recognized? In other words, if you have a differential like this, Mrs Boyd and others would tell you it doesn't matter what happens and who does what, everybody should go up and down in lockstep together. My question to you is, recognizing that in some parts of this province tenants pay 6.2 times as much property tax as they would if they owned a single-family home, would there not be a case that the apartments should see those benefits before the homeowners until that point of balance is reached?

Mr Hoffer: That's more a question for the landlord constituency as opposed to London home builders, in the sense that it's the landlords who would bear the brunt of the costs of that tax reduction. But I can tell you, having worked with landlords for many years and listened to their

representations before committees such as this, that the vast majority of landlords who have made submissions and are knowledgeable would have no problem with passing those savings on to the tenants.

Mr Gilchrist: Forgive me, because it's precisely on your constituency this does have an impact. Clearly, if everyone sees the city announce that there is a saving of X million dollars, everyone would expect their property tax to go down. I'm asking you whether the home building association, recognizing that you're building by and large single-family homes — that saving would be forgone until such time as the tenant saw savings. By the way, just to pick up on your comment, the legislation will have in it an absolute proviso that any savings will flow right through to the tenant, so the landlord will see no benefit or no cost, regardless of what happens. Would you think that's a sellable thing in this community?

Mr Hoffer: I'll let Mr Low respond to that.

Mr Ian Low: If I'm understanding you correctly, as you have noticed, and you had the London Free Press there today, as well as Mr Hoffer's pointing out that there have been no rental units constructed in this vicinity in the last months — we don't see any in the foreseeable future. The vacancy rate locally is posted at 6% by CMHC. That's down to six units and higher. The actual vacancy rate is anywhere between about 10% to 12% if you're talking to property managers.

As a result, in the foreseeable future it's rehabilitation of existing stock we need to be concerned about. When you start to talk about rebates of taxes back to the end user, if you will, our constituents are home builders or apartment building builders that put the product out to market to be purchased by others. So for us to talk with regard to rebates back to the tenants is out of our jurisdiction, because we are constructors versus the actual renters of properties. There's a very small constituency within our organization that is actually the property owners.

1610

Mr Duncan: The question of property taxes has been brought up, and there is clearly in equity between what a renter pays and what a property owner pays. I recognize that you're a home builders' association, so I won't go into that. What's the highest priority for you in terms of changes to the bill?

Mr Hoffer: From the home builders' perspective, it is relief from rent control, the decontrol provisions, the preservation of maximum rent or any legislative provisions that would allow the landlord to recover the costs of investment in apartment buildings. Those are items 1 and 2, decontrol-recontrol, in our submission, and maximum rent. The third item is also very important, because unless you change the provisions dealing with renovation and rehabilitation, landlords are not going to implement those provisions. They're unworkable. That has to be changed to encourage people to make the investments necessary to put the constituents of LHBA to work.

Mr Duncan: So you'd like to see the government withdraw this bill and just —

Mr Hoffer: Absolutely not.

Mr Duncan: Vacancy decontrol-recontrol is the heart of the bill, the essence of the bill. The question I'm asking is that a number of other groups have come to us with wording changes to the legislation that they see as significant, even though they may not agree with the thrust of the legislation. I wonder specifically about your priorities in terms of what's there now, without having to change the substance of the bill, whether you have anything specific other than the rent maximum.

Mr Hoffer: You can preserve the bill almost completely in its entirety by simply preserving the concept of maximum rent, that it does not evaporate on the turnover of a tenant. It exists under the TPA for sitting tenants and assignees of sitting tenants. What we're asking is that you also extend that to all rental units that have maximum rents. It's a minor extension of the current provisions of the legislation, and that would go a long way to relieving one of the main problems we have pointed out.

The second area has to do with the rules you have to follow if you need vacant possession to renovate a unit. To solve that problem, you don't repeal the bill. What you do is you allow the landlord to claim the three-month rent penalty as part of the capital expenditure, as part of the cost of doing the work; you extend the right of first refusal to the existing tenant, but you make it clear that when that tenant comes back into the rental unit that tenant is going to be subject to a higher rent, which will represent, in an adequate fashion, the opportunity for the landlord to recover the cost of doing the renovation work in that building. That's for improvements; it's not for necessary maintenance and repair. That's where there are going to be improvements to the rental unit.

It doesn't involve a repeal of the bill. In fact, our association supports the vast majority of the bill. We only have 20 minutes to make a presentation —

The Chair: And I've got to cut you off and let Ms Boyd ask a question or she's not going to get in.

Mrs Boyd: Ian, did I understand you correctly to say that you don't see anything in this bill that's going to encourage the construction of new low-rental housing?

Mr Low: What we see within the bill and what we've set forward today is that in the London area there is not a need for construction of new units. There is a need for rehabilitation of existing units, similar to Mr Gilchrist's earlier question. The one thing I overlooked there was that in the environment we have here in London, it is so competitive that if there are any advantages handed back to the rental market, they will have to be passed along or someone else will and landlords will be losing tenants; they'll be moving to upgraded facilities. I do not see, in the foreseeable future, construction of any new units, whether it be high end or low end. The low-end renters we see out in the marketplace are definitely gaining in the quality of the accommodations they're receiving, as well as the market rate they're having to pay for those accommodations.

Mrs Boyd: Do you see the provision in the bill that would allow the conversion of rental units to condomini-

ums, reversing the hold on the ability of an owner to convert to condominiums, increasing conversions of current rental stock to condominium use? That is the same problem we saw a number of years ago here, where most of the conversions were low-rental housing, town houses in particular being converted to relatively expensive units, which now of course are selling at \$20,000 less than they were at the time.

Mr Low: I think in the London market you've already seen the vast majority of that occur as far as the conversions go. We're registered for conversions. The London market is extremely competitive at that end. Even in the new housing sector, building new condominiums is extremely aggressive at the lower end. Some of the changes in the building codes will help us address that further.

The Chair: Mr Low, Mr Hoffer, thank you again for coming and making your presentation.

CITY OF LONDON

The Chair: The next presentation is the city of London. Speaking on behalf of the city of London are Martha Joyce and Sheila Davenport. Ms Joyce is a councillor, I believe. Welcome to the committee.

Ms Sheila Davenport: I am a councillor, too.

The Chair: Oh, we have two councillors.

Ms Martha Joyce: Good afternoon. Councillor Sheila Davenport is here in her capacity as chair of the housing subcommittee of the Mayor's Anti-Poverty Action Group. We decided to share this time. I'll be brief. From what I've heard of the presentations immediately preceding ours we have some points in common.

I would like to begin by saying that the city of London makes this submission on Bill 96 indicating that we are apprehensive because we, the municipality, are unclear regarding the mega-week changes and their impact for municipalities. When we make these suggestions, we know the municipality will likely be in a different role in the very near future in ensuring affordable housing for Londoners.

Second, I'm also chair of the Mayor's Anti-Poverty Action Group and a member of council. I'd ask the committee to note that we have a problem with an adequate supply of affordable housing in London. That's why I've invited Councillor Davenport to share this time to address this serious concern, and she will do so in her presentation. We appreciate your coming to London to hear from us and we look forward to seeing some of our remarks accommodated in your next brief.

You have in front of you the resolutions passed by the city of London. The resolutions are specifically stated in appendices A and B, but I will speak to the salient features of council's resolutions with respect to Bill 96, going to the first page of the resolution, under section 200.

The comments I wish to make with respect to what's stated on page 1 are that council opposes any changes to the Ontario Human Rights Code that would allow income information to be used in a discriminatory manner against

low-income earners, students or people on public assistance. The city of London requests that the provincial government delete the words "income information" from section 200 of Bill 96, the Tenant Protection Act. I remind you of the concerns expressed by the chief commissioner of the Ontario Human Rights Commission, Keith Norton. His five salient points are reiterated in our submission.

On page 2, I would like to bring to your attention four specific recommendations the city of London urges the committee to adopt. These are designed to ensure and protect a supply of well-maintained and affordable housing for low-income as well as other Londoners.

The first resolution, on vacancy decontrol: London is opposed to the vacancy decontrol measures proposed in section 116 of Bill 96. It effectively abolishes rent control. We're not against this because we oppose the rights of landlords to enjoy reasonable returns on investment, but rather because the proposal needs a great deal more study and consideration to ensure that the supply of affordable rental housing in this province is not quietly and relentlessly eroded through bringing back conditions that led to the inception of rent controls in the first place. We're concerned about pressures that may be placed on tenants to have them move in order to create vacancies so that the rent of their former premises could be increased for new tenants.

Under the section of rent increases and maintenance, the city of London asks that provisions in the Rent Control Act, 1992, that permit the issuing of orders prohibiting rent increases not be repealed as proposed. OPRIs have effectively complemented local property standards and have assisted in maintaining better physical standards for rental properties in municipalities.

The retention of the Rental Housing Protection Act: The city of London believes that the Rental Housing Protection Act should be retained since it has proven to be an effective review mechanism for ensuring that local supplies of affordable rental housing are not being threatened by conversions, by major renovations or by demolitions. In the alternative, the city of London asks that the government should consider giving local municipalities the authority to enact bylaws requiring municipal approval to convert, to make repairs that would lead to luxury accommodations, or to demolish residential rental housing.

There are improvements to the local property standards that the city of London welcomes, because they would enhance the municipality's ability to improve local property standards. Those are iterated in greater detail in the appendices accompanying our resolution.

I would ask Sheila Davenport to address the concerns with respect to the supply of affordable housing in our community.

1620

Ms Davenport: Mr Chair and members of the committee, I had intended to put my name down. I called your staff a month ago and was not present when they called back to confirm the time, so I'm very pleased to be doing this with Councillor Joyce.

I am here as a city councillor and in my capacity as chair of a housing subcommittee of the Mayor's Anti-Poverty Action Group. This is an action group dealing with a wide range of poverty issues in London, formed last December.

I thought I would like to tell you a little bit about London. London, in spite of its being a wonderful place to live and in spite of its reputation as a rich and upscale city, has some disturbing statistics when it comes to poverty. London has a higher percentage of people living with low income, that is 15.2%, than the provincial average, which is 13.4%. This often comes as a great surprise to people. We have a higher percentage of children under 14 living in poverty than in Ontario as a whole. That was why the mayor's group was set up, to address this problem.

There are some other features that make London unique. We are anticipating, as you will know, the closure of two psychiatric hospitals in the near future, which will present us with more challenges with regard to housing, particularly for discharged patients. We have a university here. We have students. We have a larger proportion of single mothers than the provincial average. We have a number of seniors. We need affordable housing.

London has a high vacancy rate in some areas, but it does not impact those at the lower end of the income scale. Let me give you an example: 87% of those in receipt of social assistance live in unsubsidized housing. That means 19,740 people are currently on social assistance benefits and are renting from the private market. They will be greatly affected by Bill 96 as it stands today. I have included in my presentation figures compiled by CMHC regarding average apartment rents and the chart of benefits received by social assistance recipients, if you would turn to the last page.

I personally have been very involved in the housing registry in London. I'm very aware that the rents for most one-bedroom or bachelor apartments are well above any 30% rule of thumb. If you take the rule of thumb and look at some of those figures, you will see that a single welfare recipient receives \$520 and they can spend anywhere from \$345 to \$457 on accommodation. It is true that there is not sufficient low-income accommodation. We have a very long waiting list for our London housing authority. This vacancy rate just isn't percolating down.

We oppose any changes to the Human Rights Code that would permit landlords to demand income information other than credit checks and rental history, recognizing that even those present some difficulties but also recognizing the rights of landlords.

The London housing registry, an agency locating housing for low-income earners in the private market, reports that co-signers are often very difficult to find for those on social assistance, as many of their associates are in identical situations. But above all, granting landlords wide powers to refuse housing on the basis of income information alone will create difficulties for many low-income people, both those on social assistance and those living on the margins.

Mr Duncan: Thank you for your very thoughtful presentation. Both presentations have added some very useful information in terms of the whole debate.

I want to address Councillor Joyce first. In Toronto, we had a presentation from a gentleman from New York who gave very compelling testimony around what happened in New York when they went into a system of vacancy decontrol. Earlier today a presenter referred to a study by a professor from the University of California who did a study of Los Angeles subsequent to the implementation of vacancy decontrol.

You've indicated that the city's position is that it needs more study here. Have you had a chance to look at that? Have you had any preliminary discussions around that issue and the kinds of impacts it'll have on the city of London?

Ms Joyce: No, other than to recognize the disparity between what the market requires in terms of rent payments and the amount of public assistance available to individuals or families, or the level of income; low-wage earners have a minimum level of income and are still below the poverty line. I don't have specific information to provide you today in that regard.

Mr Duncan: Would it be fair to paraphrase one or both of you as saying that it would be the view of London council and yourselves individually that there is a problem with supply of affordable housing now and that the implementation of Bill 96 will exacerbate that problem?

Ms Joyce: Very clearly.

Ms Davenport: There is no question of that.

Mrs Boyd: I'm really very grateful that you brought the statistics forward, because of course we have been hearing from landlord groups that there is this huge overabundance of housing and that it's competitive and therefore there's no problem and we shouldn't be so worried about low-income folks.

One of the issues that hasn't really been dealt with, and it's a big issue for us in London, is the issue of student housing and how it impacts on that lower end of the housing market. You've given us statistics for the averages and for the people who are on social assistance, but students often are living on an allowance that is similar to the kind of basic allowance that people have when they're in those situations. We've got a large university; we've got a large college. Those students are competing for the same kind of accommodation as other residents who are of low income. Can you comment on how that exacerbates this problem and why the claims that we have a very competitive market really fall short when it comes to low-income people?

Ms Joyce: Having two students in university, I can appreciate how that impacts. There is definitely competition for the more modestly priced accommodation. Quite frankly, some of the rooming-houses barely meet the standards for habitation. I've had complaints where I've asked property standards people to go out and investigate the living accommodations. Some people accept it if they have to use a broom handle to keep the fridge door closed, that this is an acceptable way to live, and other people

can't tolerate it. But I have complaints in that area, and I'm sure Councillor Davenport has. But given that we're a municipality with a large university and a community college which we've heard have a higher-than-usual record of enrolment, that competition for modest, affordable housing is going to be even greater. We're going to begin to see the impact within the next couple of weeks.

1630

Ms Davenport: Students certainly share housing and try and reduce their rents that way. I was speaking just before I came to the head of the student council, who unfortunately did not submit his name soon enough to come, or you would have heard some very specific anecdotes from him. Certainly they're in competition. The difference between people on social assistance and other low-income people is that students have hope they will come out of this, but some of the others simply don't have that hope.

Mr Gilchrist: Thank you both, councillors, for coming before us here today. I don't profess to own a crystal ball, so for all those who have used words like "I know," and "It will," you'll forgive me if I take that with a grain of salt. I'll deal with the specifics as they face us.

Today's London Free Press has a total of 310 advertisements, not counting any geared-to-student housing. The total number with prices quoted, 205; the number of those renting at \$400 or less, 38, or 19%; the number of two-bedrooms at \$500 or less, 30. I take from your chart that that means every single possible scenario, save a single person — all couples, a single parent with one child, a couple with one child — every one of them could afford those 30 units.

If the bill on its face said today every rent in the city could legally be raised to \$1,000, when you know — I don't know if you heard the presentation earlier. Norquay Homes indicated they have 1,200 units; they don't have one unit at the legal maximum rent today. Speculating that you could add another \$200, what leads you to believe that the market forces will not continue to be the predominant issue here in London and elsewhere in every other community in Ontario?

Ms Davenport: I have great fear — and you're going to say I'm using a pejorative word — that these market forces will not assist people at the lower end of the income scale. I appreciate the fact that you've read the Free Press and looked at the vacancies. I speak from my experience with a housing registry that has tried very, very hard to place people who come to them. It is not easy, if you are in one of these brackets, to find accommodation. The one I would make exception for is perhaps a single bedroom for a couple, and that would make it possible in some way to live on.

Mr Gilchrist: Councillor, I'm not trying to put you on the spot in terms of the specific numbers, but I think you would agree with me that over and above anything I would find advertised in the London Free Press, there will be other people who use the Renters News, there will be others who just put a For Rent sign in their window.

Would you not agree that's a significant amount of choice today for any person who finds themselves in a situation, getting that \$511, or \$554 for a single parent with two children, or \$602 for a couple with two children, that they've got quite a variety of choices facing them today? If you agree with that, would you also not say that as long as there is that supply of housing out there, you'll have that competition in the future, that you will see the artificial maximum rents as a non-issue? Nobody's at them today.

Ms Joyce: I see a great disparity in the numbers here. You're talking about how many units are available. We talked about 19,000 people on social assistance, and how many units are available in that affordable range? Did you say how many?

Mr Gilchrist: I'm saying there are 310 ads. Could we triple that for the number of people who don't advertise, who use other sources, so 1,000 units?

Ms Joyce: But there's a great disparity, and we have not been out to investigate those accommodations. They may sound great in the newspaper but they may not be appropriate for individuals, if you work in the east or northeast end of London and have to reside at the south-east end of London. You need accommodations close to your place of work.

I am fortunate in that I became interested in the anti-poverty action group, and I have teenagers who go out and work in all different sorts of jobs. I have a 16-year-old who's a high school student who's working with young men who are in their first jobs, and they bicycle to work. Already two of them have been struck on their bicycles, through no fault of their own. We have to begin to appreciate what people on low incomes are enduring to get to work, to get jobs, to participate in Ontario Works. I don't know how far they're cycling, but I drive my son. You have to accommodate people's needs, so even though there are those units available, it may not accommodate a family who wants a child to be able to walk to school, the husband to be able to walk to work or his wife to be able to hop on a bus to get to work or whatever.

The Chair: Councillors, unfortunately we're out of time. Thank you both for —

Ms Davenport: I had one more comment.

The Chair: I'm sorry, but we have other people to hear. Perhaps you can submit the other comments. You can always do that in writing. Thank you very much.

WATERLOO REGIONAL APARTMENT MANAGEMENT ASSOCIATION

The Chair: The next presenter is the Waterloo Regional Apartment Management Association; Robert Eby, who is the president.

Mr Robert Eby: I haven't prepared any written statement to hand out, so you could make some notes as we're talking. I have a number of questions to ask you. I'm here as the president of the Waterloo Regional Apartment

Management Association. We're a group of landlords in the Kitchener-Waterloo area. We have about 250 members who have many thousands of units in our area. We've made briefs, and I'm sure you've got all kinds of writing and briefs from many people on the bill itself and proposed changes. I made a presentation the last time and everything I said then still holds true.

At this point, though, I had a look at the bill concerning mobile home parks. I don't know how many people have made presentations to you about mobile home parks, but I've been involved in managing two mobile home parks over the course of the last eight years. When I read some things in your bill — for example, when it says a tenant in a mobile home park has the right to sell his mobile home without consent and can leave it on the leased lot, do you realize that you give him the right to make an exorbitant profit off the landlord's land and you restrict the land owner's right to use his land as he sees fit?

Let me give you an example. There is a mobile home for sale in a mobile home park. Let's say the value is \$4,000, \$5,000 or \$6,000; in other words, if it sat in a used car lot they would realize something in the neighbourhood of \$4,000, \$5,000 or \$6,000, and the purchaser, of course, has to take it away from that particular lot. But if the trailer sits on a mobile home lot, they could ask \$20,000, \$30,000, \$40,000 for that mobile home that's only worth \$4,000, \$5,000 or \$6,000 and the new purchaser doesn't have to take it away. It's the landlord's land. He pays the expenses, he has to take any losses or whatever happens. Should he not have the right to use that land as he sees fit? If somebody decides they want to move or sell their trailer, give them the right to do that. I don't think there are any qualms there. But should you also give the tenant the right to make \$20,000 or \$30,000 off the landlord's land?

If you also look at a situation where you give the tenant the right to lease his mobile home to anyone he chooses without the consent of the landlord, why? Why do you, for example, allow apartment owners to deny consent but not to mobile home park owners? You're simply saying that if you happen to be living in a mobile home park and you want to rent your trailer and go away, you can do it; you can lease it to anybody at all and the landlord has absolutely no say in who comes and lives in the park.

In another area I looked at, it says you're going to void agreements that two parties have already entered into in terms of using the landlord as an agent to sell the tenant's mobile home. Why are you voiding the agreements that are already made as to, for example, the price they already agreed upon to sell the unit to the mobile home park owner? You want to void those agreements; I'm not quite sure why.

When a tenant abandons their mobile home and the landlord applies for an order to terminate the tenancy under section 73, he keeps the mobile home because you've given him the right to keep it. Let's say he keeps the mobile home and re-rents it to somebody else, gives them a lease, and the first owner, the abandoning owner,

comes back and says, "I want my mobile home back." You say the landlord has to give him back the mobile home. The part that perhaps you're not looking at is if the mobile home park owner has leased the unit to somebody else and it's on a lease that doesn't expire for another eight or 10 months, when does this first owner get his trailer back? And when he gets it back, does he have the right to be back in your park as a tenant when he abandoned the place to begin with, and then you went to the tribunal and got an order to terminate the tenancy? There is nothing in the bill that talks about those things.

1640

Why do you not allow the landlord of a mobile home park the right to increase his rents above the guideline if a new tenant comes in? You give that right to every other landlord in the province because he's got an apartment building and so on, but you specifically say to the mobile home park owner that he doesn't have that right. The tenant wants to sell, the tenant makes thousands and thousands of dollars profit, the new owner comes in, but you can't negotiate a new rent with him?

When you limit entry and exit fees to reasonable out-of-pocket expenses, are you intending to allow for the landlord's own labour and the use of the landlord's tractor and equipment and so on? Let me give you an example. At a park I had in Mississauga, it was our staff and our equipment; if somebody pulled their trailer out of the park, we were the ones who took it to the road. But you're saying we can't charge him because it's not out-of-pocket expenses? What is your interpretation of these out-of-pocket expenses?

Does section 117 apply to the mobile home park? This section gives the landlord the right to negotiate a new tenancy agreement with the new tenant who has occupied the rented unit as a result of an assignment without consent. The mobile home park says the tenant can sell the trailer, a new tenant comes in, can't raise the rent, but does section 117 apply?

It might be wise, also, to look at section 27, where you've got the thing about obstructing, coercing, threatening, interfering, where the landlord can't do that to the tenant. That's good. But unfortunately you haven't also put in there that the tenant should not be able to do all those things to other tenants, nor should he be able to do those things to landlords.

Those are the brief notes I have. I would gladly leave the rest of the time to answer any questions you have.

Mr Duncan: I'd be curious to hear the answers to the questions posed to the government. I would yield my time for the government to respond to the specific questions that were raised.

The Chair: We'll proceed to Mrs Boyd.

Mrs Boyd: As will I, Mr Chair.

The Chair: Then we'll proceed to Mr Wettlaufer.

Mr Wettlaufer: Bob, I'm not going to respond to those questions. I'm going to leave that up to the PA, but I do have some questions of you.

We've heard a lot over the last couple of weeks about rights of tenants and rights of landlords. Only at one time, last Friday in Ottawa, did we hear from a tenants' group — Mr McIntyre of the Federation of Ottawa Carleton Tenants Associations — only at that time did we hear from a tenants' group as to what they thought the rights of the landlords were. One of those rights included the right to pursue a profit, not the right to a profit but the right to pursue a profit. Do you have any comment on that?

Mr Eby: I believe most small landlords enter into buying multi-unit residential properties because they believe it's a safe place to put their money. It's usually all the money they've got in the world. When I bought my apartment building, it was all the money we got from selling our house.

I know how to manage property. I believe we should have the right to make a profit, to do things so it's acceptable to our tenants and the tenants want to agree to pay the money. If we make more money as a result of it, I think we should have the right to do that.

Mr Wettlaufer: Could you give this committee an idea of the percentage is of immigrants who came to our region over the last 45 years or 50 years, after the war, and purchased these properties with the idea that it would be a good investment for their pension, for their retirement?

Mr Eby: I have no idea what the percentage of it is, but in our association we have a lot of immigrants who have purchased property. The reason they did it was that they brought the money from the old country that the government would have taken away from them and wanted to put it into something that was safe. Real estate is supposed to be the safest thing to put it in because nobody can take your land away. But maybe the ability to use your property as you see fit — the government can and has taken that right away from us. We'd like it back.

Mr Wettlaufer: One of the comments I hear from some of these landlords is that they haven't made enough money over the last 10 years to renovate their properties properly to make them safe for their tenants. Would you concur with that?

Mr Eby: Over the last 10 years? I guess that puts us just prior to Bill 4 and the current legislation. I believe that if a landlord pre-1989 did what he was supposed to do and spent some money, he could have at that point got his money back through rent increases. Of course, since 1990 he has not been able to do that. In my opinion, he would have been a fool if he had put money into his building since then, because he only got 60% of his money back, if that.

Mr Wettlaufer: I'll turn it over to the PA.

Mr Gilchrist: Thank you, Mr Eby, for your presentation. I was scribbling furiously as you asked your questions. Let me start, in no particular sequence, except perhaps through the bill itself.

If I caught you correctly, you were asking if there's a conflict between various sections of the act which took priority. Subsection 2(3) says, "In interpreting a provision of this act with regard to a mobile home park or a land

lease community, if a provision in part V conflicts with a provision in another part of the act, the provision in part V," which is the mobile home park, "will apply." So part V sections do take priority.

As a philosophical distinction between tenancy in an apartment and tenancy in a mobile home park, we believe there is a significant difference, given that over and above their other furniture the tenant has a vested interest in the value of the home itself. While the land continues to be under the control of the landlord, there is a difference that is not found in an apartment context. You don't own a portion of the apartment building, but in this case you do have the ownership of everything from the skirt up in the park. That leads to a different interpretation when you get to things like vacancy decontrol.

I would ask you, on the reverse, looking at this from the tenant's perspective, if you would agree that the unfettered ability of a landlord to raise the land rental price would decrease the value of the tenant's unit, if, for example, he or she is paying \$150 a month right now and the landlord — the act, as it's contemplated in regulation, would allow the landlord to increase up to \$50 at the time of a move, but let's say that provision wasn't there and you could do whatever you want. Would you not agree that if all of a sudden you said the new rent is \$400, that would very dramatically limit the tenant's ability to find a replacement buyer for his or her home? My question to you is, is there a need to strike a balance there? If you don't think this act has done it adequately with the wording there, do you have an alternative that I could take back to the minister?

1650

Mr Eby: If you indicate to the tenant who is selling the mobile home that he has the right to sell it and leave it there, you're indicating to him that he can make this gigantic profit. If that piece of land were vacant and I as the owner of the land were able to go and buy a \$6,000 trailer, move it in and put it on the lot, then I would be able to make the \$20,000 or \$30,000. I don't know what the tradeoff is or what the answer is. I also don't believe that either side should be able to make this exorbitant profit as a result of selling a trailer. But I do believe it's the landlord's land, it's not the tenant's land, and there's no way tenants should be allowed to make that kind of profit. I don't know what the answer is. Maybe you have or have not talked about it. I don't know.

Mr Gilchrist: We have laboured with this one at length. Let me ask you this, because I think it's quite relevant. We've talked about the vacancy rates in apartments in your district, your part of the province. If the choice was given to a tenant that the landlord could recover whatever he thought the value of the land was at the time of that move, the tenant, faced with that increase and the impact it would have on the selling price, would then have the choice to move their unit. Are there options?

Mr Eby: Very few. But the different levels of government could make those options available. I believe there are probably many people out there with vacant land who

would gladly convert it to a mobile home park if they were allowed to, but of course different municipalities won't allow you to do that.

Mr Gilchrist: That's the conundrum I hope you would see we face: Given that it is up to the municipalities — and I'm not passing the buck when I say this — they should have the right to do zoning. That is something that should be left to local decision-making. But if there is not an option for that tenant to move, would you not agree with us that we have to be even more careful about striking a balance that recognizes that lack of choice?

Mr Eby: Yes, you do.

Mr Gilchrist: As a general response to what you've said there, have you had an opportunity to formulate any alternative wording or consider how we could better strike the balance, if you see there isn't one? If you haven't brought it with you today, if that has not been the case yet, would you do that and get it off to us? I'd be more than happy to give you detailed answers and detailed responses to any specific suggestions you would care to make in this regard.

Mr Eby: I don't have one, and I don't want to make one up off the top of my head, but obviously it is something we both have to look at.

Mr Gilchrist: Thank you. I appreciate your comments, Mr Eby.

The Chair: Thank you, sir. We appreciate your coming this afternoon.

WATERLOO REGION TENANTS' COALITION

The Chair: The next presenter is Paul York of the Waterloo Region Tenants' Coalition. Good afternoon, Mr York.

Mr Paul York: Hi. Thanks for fitting me in at the last minute like that. The original presenter didn't show up.

The Chair: We're pretty cooperative here; we try to be.

Mr York: I signed on a long time ago, but I didn't get picked originally, so I'm glad for the opportunity.

My name is Paul York. I'm a member of the Waterloo Region Tenants' Coalition. I'm a tenant. That's largely why I'm here today. I am here to object to those provisions in Bill 96 which hurt tenants specifically.

Over 40% of the households in Waterloo region rent their homes, which is higher than the provincial average. Kitchener possesses the second-lowest vacancy rate in the province, less than 2%. Waterloo region has the fifth-largest concentration of rental housing in urban areas of this province, well over 100,000 tenants, and yet K-W was not chosen as a site for the public hearings. I believe this is because of the strong tenant presence in Kitchener. I suspect that had an influence on it.

The Waterloo Region Tenants' Coalition has hosted half a dozen successful public meetings over the last year to oppose this bill. Hundreds of tenants have attended

these meetings and hundreds more have called to express their support. Currently we have, I believe, over 600 members in this coalition from Cambridge, Kitchener and Waterloo.

By not choosing Kitchener as a site for the hearings, tenants in Waterloo region have been denied a voice. It's very difficult to get over here. I just made it in time myself, and three other scheduled presenters didn't make it. This single deposition does not do justice to so many people, yet I will try to give you an impression of tenants' concerns there, because I've been in touch with many tenants.

During the last year I travelled to Cambridge and throughout Waterloo and Kitchener, talking to tenants and listening to their stories. I did this in the capacity of a volunteer with the coalition, distributing information.

Our coalition is largely made up of senior citizens. I would say 70%; that's a guess, but a lot of senior citizens. Many of those seniors are on fixed incomes. Those who live in private rental housing will be devastated by a 10% rent increase when that happens. Seniors' residences provide big profits for those who own them. I would not be surprised if the residents of Conestoga Towers or the Gresham buildings in Kitchener experience substantial increases. Many of the seniors I have spoken to have expressed outrage at this government's callous disregard for their wellbeing. Most have heard of the proposed changes and have told me they couldn't afford to pay more rent. One lady told me she wanted to "send Harris to the moon." Those are her own words. She was shaking her walker as she said this.

Several superintendents of seniors' buildings expressed their concern for the tenants they were caring for. One elderly superintendent, a man in his 70s, told me that the people in his building were too poor to successfully face another rent hike. He also told me that if he was a bit younger, he would want to teach some of the MPPs a lesson they'd never forget.

A woman outside a Holman building in Cambridge told me that if the rents went up again the landlord would have a war on its hands. Those were her words: "The landlord would have a war on its hands." Another woman in Waterloo said: "I'm afraid of being homeless. What am I going to do with my children if I'm homeless?" This was in Sunnydale Place. I don't know if Mr Wettlaufer is familiar with Sunnydale Place. It's in Mrs Witmer's riding. There's a very bad landlord there. He never repairs his property.

Everywhere I went I was greeted by people who already knew about the changes, and they were scared. They were also angry at the government for trying to impose such an onerous law on them.

A study from the Ministry of Housing has noted that more than two thirds of all tenants move at least once within a five-year period. Five years from now, with the aid of vacancy decontrol, the majority of rental apartments will be lost to unregulated and unyielding market forces. Unscrupulous slumlords, and I think I use that word cor-

rectly, will use this opportunity to gouge those tenants who can least afford it: seniors on fixed incomes; young couples just starting out; families new to this country, of which there are many in Kitchener; working-class families; the unemployed.

For students the end is even closer, since the majority move every year. Within a year or two, all the students' apartments will be decontrolled. Thousands of students at the University of Waterloo and Wilfrid Laurier University will be adversely affected. This is at a time when tuition hikes, perpetrated by this government, have already threatened higher education substantially.

I want to address another area that not many people are familiar with; I came to know about it when I was living in Toronto in 1994: the warehouse residencies. There are many in Kitchener and Waterloo that I know of. These are industrially zoned areas. It's not very hard to imagine life without rent control or tenants' rights. People who live in warehouse studios already know what it's like. Despite the fact that they live in their studios, they are not considered to be legal residential tenants, because they are located on industrially zoned land. Their rents could be increased at any time, to any amount, and they can do nothing about it. Commercial leases offer no protection. These people are frequently the victims of harassment, extortion and intimidation tactics, such as turning the heat off in winter, but they have no legal recourse — none.

1700

The existence of warehouse tenants highlights the terrible lack of affordable rental housing stock in Ontario's urban centres, including K-W. This shortage will be exacerbated with the loss of the Rental Housing Protection Act, not remedied, especially since warehouses are often gentrified to make into condos. For an example of what happens in the absence of equitable laws we have only to look as far as our industrial districts.

In terms of tenants' rights, there are several proposed changes in the TPA that I find highly objectionable. Landlords will be able to swear that a tenant verbally agreed to terminate the tenancy. This provision will encourage landlords to lie in order to bring in higher-paying tenants or to get rid of tenants whom they don't like personally. Tenants will have only five days to file a written dispute from the time they are served notice. This does not give tenants enough time to respond. Unfair evictions will result. Landlords who evict will be able to sell or throw out a tenants' belongings.

I have witnessed a landlord seize a tenant's property in an attempt to extort illegal charges beyond the monthly rental payment. In practice, the Tenant Protection Act, by allowing this last provision, will allow this kind of criminal behaviour to go unchallenged.

The Tenant Protection Act does not require the landlords to post their proper name and address, making it difficult to notify them of problems within the building. This will greatly serve absentee landlords, who routinely ignore their tenants' concerns, not to mention the work orders imposed by the municipality. This provision, which

makes tenants afraid to organize to protect their legal rights for fear of eviction, I find especially beneath contempt. Justice is not served by these provisions. There is no sense of equity or fairness in them. I urge you to look at them again and amend them, please.

Bill 96 will do more to cause poverty and financial hardship in Waterloo region, I fear, than any other single piece of legislation put forward in the last two years. And for what? Developers have repeatedly stated that they have no intention of building affordable rental units. Professor Hulchanski of the Centre for Applied Social Research, whom you heard speak in Toronto, concluded that ending rent controls will have no positive impact on the rental housing supply. Any housing boom that results will not result in more affordable rental housing, due to the loss of the RHPA and developers' unwillingness to build such housing. In fact, rental housing stock will be lost through demolition and renovations. I fear that a plague of gentrification and displacement will result in increased homelessness and poverty and increased health problems, in Kitchener especially.

This is at a time when 15 proposed social housing sites in K-W have been cancelled and when, I've heard from some sources, social housing is going to be downloaded. I don't know if that's true, but I certainly hope not. If that were the case, in addition to these cancelled social housing sites, in addition to Bill 96, I ask you to think, where are people going to go? In terms of the motive, I suspect the motive for a lot of these changes has to do more with partisan political ideology against regulation than any common sense.

This attack on tenants' rights will facilitate the degeneration of private rental housing to a type of feudal arrangement in which the landlords have nearly absolute power and tenants are at their mercy, just as in the warehouses. Housing is not just another marketable commodity as some people here have suggested. Market failure requires us to regulate housing, as Professor Hulchanski noted. The conditions in which people live affect their health and wellbeing.

Safe, secure and affordable housing is a human right. This right should be upheld by law. If it is not, society as a whole will suffer. That is why we need to retain Ontario's existing rental housing regulations. I urge this government to reconsider its position and, where possible, amend the bill to reflect the need of tenants for affordable housing and for equitable rights.

A member of the Waterloo Region Tenants' Coalition will be submitting a written recommendation with specific amendments to this legislation prior to the 14th. I thank you for your time.

The Vice-Chair (Mrs Julia Munro): Thank you very much, Mr York. We have about two minutes per caucus, beginning with Mrs Boyd.

Mrs Boyd: Thank you very much, Mr York. I share your regret that the committee was not able to go to the Kitchener-Waterloo-Cambridge area because I think the issues there, as you present them and certainly as I have

heard, are quite urgent in terms of the stock of low-cost, affordable housing. That really is where we are worrying about what is going to happen to people. When people have a lot of money they balance off some of the power that landlords have. When you don't have a lot of money, you can't afford to move. Then you're in real difficulty.

I was glad you talked about the complicating factor of student housing because I think it is a very serious problem there. I think it is London; I think it is in any university or college town. Where you have both universities and a college, you've got an added problem.

You're the first person I've heard talk about the warehouse problem in those frank terms. It's very helpful that that be out there in the open because it isn't just a problem in Toronto; it is a problem all over. I'm so glad you mentioned it.

Mr York: I've met many warehouse residents in Waterloo and Kitchener. Industry has left the inner core, so they are living there because of the housing shortage, which I don't believe will be solved by this bill, and they just have no rights. It strikes me that this is exactly what we're facing.

In Toronto, in one building on Sorauren, the city had to go to an enormous amount of trouble and cost — I wouldn't be surprised if it was \$100,000 — to try to get this one landlord to make some changes in his building because there was no heat and electricity. It was a terrible situation. This is very costly. If you're trying to save money with this Common Sense Revolution, think about that, the cost of getting these landlords — and with the end of rent freezes, the same sort of thing will happen. This is one of the few tools the municipalities have to enforce work orders, and you're taking it away from them. That's what Pam Coburn of Toronto building inspections said.

Mr Wettlaufer: Paul, are you aware that taxes on apartment units are considerably higher than on a corresponding detached home? In our city they could be as much as two and a half times.

Mr York: Yes.

Mr Wettlaufer: Now that the municipalities have the right to reduce those taxes, will you, through your association, make the tenants aware that they can now put pressure on the regional and the municipal councillors to reduce taxes on apartment units? You can get commitments from them prior to the next municipal election. Will you do that?

Mr York: I will consult with the coalition and whatever is best for tenants is that region, we will pursue that actively.

1710

Mr Wettlaufer: That could significantly reduce rents. Also, I've heard you talking about the rights of tenants and I'm not trying to say for a minute that tenants don't have rights. What we've tried to do with this legislation is steer a very thin line through a maze of rights. Do you not think that landlords have rights too? They own the properties; it's their investment.

Mr York: Yes, they do. They have rights and responsibilities, and I believe landlords and tenants should both comply; they both have rights. Some of my own relatives are landlords and I've talked to them about this legislation. For example, my mother owns about 10 houses with tenants. She doesn't feel it's necessary to raise the rent. She gets along with her tenants very well. I think the majority of landlords are fairly good, like her, and existing laws serve both parties well. It's the landlords who have enormous properties and where many abuses have been recorded that are problematic in this, I think.

Mr Wettlaufer: But they're in the minority, right?

Mr York: It seems like the majority of tenants are in their places.

Mr Wettlaufer: Eighty per cent of the rental buildings in this province are 10 units or less and most of them are owned by the small landlord. You heard me ask Mr Eby the question before, but 65% of these buildings are owned by single landlords, are single buildings, and they are largely immigrants who came over here after the war: Poles, Italians, Germans and Jews. This represents their life savings. I think we have a very delicate balance here that we have to deal with.

Mr Duncan: Thank you for your presentation. I just wanted to confirm again to make sure I can paraphrase you: You're saying, again, it will be the lower-income, affordable units that will be most impacted by this. It will do nothing to create more supply. In fact, it will decrease the supply of existing affordable units.

Mr York: From what I understand, I fear that places like Conestoga Towers, although they're not necessarily low-income, will face increases as well. It's just that the low-income tenants will be least able to pay.

The Vice-Chair: Thank you very much, Mr York, for coming here and making your presentation today.

INDEPENDENT LIVING CENTRE, LONDON AND AREA

The Vice-Chair: I'd like to call upon Steve Balcom from the Independent Living Centre.

Mr Steve Balcom: Good afternoon. I'd like to thank you for giving me the opportunity to speak with you this afternoon. I realize it's getting late in the day. I probably won't take all the time needed.

Today my opportunity has arrived to represent the Independent Living Centre, London and Area, in an address on some features of Bill 96. Our centre and its members believe in the independent living movement. We endorse people making their own decisions and charting their own course in life.

People with disabilities are capable individuals who make a positive difference in our communities. In light of these facts, let's take a look at the effect Bill 96 will exact upon us.

Bill 96 will take away a human right, and we will never agree to the destructive removal of our human rights. We

will never agree to let someone else move us, invade our privacy or harass us. The human rights movement marched on through blood and tears to reach its goal. Only a fool would toss away their human rights without a fight.

In the discussion paper on Bill 96 a faster, more accessible system is proposed. This new system would resolve landlord-tenant disputes more quickly. Wait a minute. Who said that the system in place is broken? We didn't. Who said that faster is better? If this new system is faster and more accessible, does that mean it is going to be better and any more fair for the tenants who go there? Pardon me if cynicism paints this picture, but does this new system put landlord-and-tenant disputes above the law, below the law or outside of the law?

This new picture of dispute resolution looks like a revolving door. The door is spinning fast with people going in, people going out. It is fast, it is quick but it is no better. It may be cheaper to operate, but no better. If lawyers and judges take a lengthy time to prepare their cases for court, they set an example of good preparation. "Quick and dirty" does not serve justice. We suspect it will serve landlords. We suspect it will serve service providers. We suspect it will not serve us.

We'll become sitting ducks in a carnival show, waiting to be knocked off in the sights of landlords and service providers whose bottom line is dollars and cents. Let me give you an example akin to the examples in your discussion paper, then I am sure my analogy will make sense to you.

Let us say Al Leach is 25 years old and has a physical disability that calls for attendant care services. That's why he lives in an SSLU, support service living unit. Nowadays we refer to those units as supportive housing units. The staff come in morning and night to help him get up and go to bed. His landlord is his service provider, who sublets his unit from the building's landlord.

One fine day, after Bill 96 was passed, Al told his service provider that he would like a little more attendant care to do a few tasks for him. That's when it happened. Without knowing it, Al just grew feathers and should start quacking. His service provider may decide that he crossed the line of no return. The service provider can apply to the tribunal for Al to be transferred, or as we would call it, evicted. Will Al know what's going on or will he just be bobbing in the water unaware of his future disaster? Will anyone tell him he is about to be displaced by management? Will anyone tell him that his life is about to be rearranged without his permission or knowledge or will they just show up and say, "We are moving you today"?

What recourse does Al have? You didn't talk about that in the discussion paper. You did talk about "special rules" for care homes. Pardon me, but every time we hear that word "special," we know someone is about to do something to us, not for us.

The "care homes" label is a category that includes boarding homes, nursing homes and a variety of situations in between. This unusual category is not subject to any government regulation. People may need services, other

people may not. When the landlord is also the service provider, the tenant's insecurity is real and not imagined. Security of tenure should not be influenced by the tenant's service needs. If service needs change, eviction, or "transfer," as you call it, should not be a possible option to the landlord. Security of tenure is a strong, positive factor that contributes to good health and wellbeing.

If the tribunal is the answer to all our possible troubles, they'd better be good, they'd better know what they're talking about and they'd better care about human beings, not the almighty dollar or political power. After all, where are all these people going to be "transferred" to? I shudder to think of the possibilities. Everyone knows that the need for affordable, accessible housing is far greater than the supply. It would be difficult to put our trust in a new type of system when that system has not been clearly designed and presented to us for assessment. Any governing body that affects such a basic human right must be an independent body and expert in its knowledge of landlord and tenant rights and obligations. We are certain of that.

The fact remains that we value our rights as tenants and as citizens of Ontario. We came here today to express our concerns about Bill 96. We want our human rights back. We want to choose where we live and make our own decisions about affordability and location. We do not need Big Brother watching over our shoulders telling us what we can afford or where to go. We do not want to be sitting ducks waiting for the inevitable death of our personal rights as citizens of this province.

Do not do it. We want to move forward too, so let's move forward together, ensuring that an individual's renting options will be protected and secured. Put the protection back into the Tenant Protection Act.

1720

Mrs Munro: Thank you very much for bringing our attention to this particular issue. I was wondering if you are familiar with the community care access centres and their mandate.

Mr Balcom: I've been here at the hearings all day except for the first two this morning, so I'm aware of what you said earlier today. But it begs a question. The control is with the CCACs, and everybody is in agreement that's where it should be. It begs the question, what is it doing in this legislation?

When it comes to care homes, as it sits now in this legislation it is too broad and too vague. It paints a broad brush. It should not be in there. It should not be part of this legislation. It doesn't belong there. I heard an earlier presentation where it did apply and this is where it should be taken on a case-by-case basis, the individual merits looked at and judged that way. You don't create a broad category under care homes that could be interpreted five ways to Sunday. If indeed it is under the CCACs, then fine, but it should not be part of this legislation.

Mrs Munro: Do you think then, in response to your concern, that there should be a recognition of the superior position, if you like, of the CCAC?

Mr Balcom: I have a problem with that too, but that's another discussion. If you want to do that, we'll discuss it, but that's not what these hearings are for. I have a whole host of concerns about the CCACs but that's under long-term care. That's another hearing and that's another subject.

Mr Duncan: Just so that I understand, you believe that the entire part IV ought not to be in this statute, that the whole issue of care homes or how we want to eventually define them needs to be dealt with in separate legislation?

Mr Balcom: It's a double-edged sword for us. It has already been stated today that the current rent-geared-to-income units are not the greatest in the world. There are problems, yes, but at least we have human rights protections and tenant protection. You should not take service provision issues and put them as an adjunct into a rent-geared-to-income situation. The two do not belong together.

Mr Duncan: What about the argument that if you didn't have this type of section in the bill, there would be no protection? You're saying that a separate bill would have to be developed at the same time.

Mr Balcom: I beg to differ with you in the sense that if you're saying care homes are seen as a source of protection and that's why you're putting them in this piece of legislation, it doesn't make sense because it doesn't do what you intended it to do, if that was your idea in doing it. I don't just mean recipients of attendant services. There's a whole host of community agencies and community health services that this could pertain to.

What it does is, it adds another level of vulnerability to us. We're already under the gun because we're dealing with a very limited — presenters today have said when you look at low-income housing, you're looking at a very small percentage of the overall picture. When you look at accessible affordable housing, you're talking about an even smaller percentage of available housing. So when you put these service provision issues on top of an even smaller available stock of accessible affordable housing, let alone low-income housing, it ends up being two barriers at once. Potentially what you're setting up, especially when you take away the rights, is that you're giving landlords and potentially service providers another weapon to use against us. We're already vulnerable, and if we are in receipt of community services, we're going to be even more vulnerable. It doesn't make sense.

Mrs Boyd: Steve, it's not just young disabled people who are affected by this but seniors perhaps even more. In the Free Press this morning there was an article from the Middlesex-London District Health Unit about a senior who was in a declining mode of health, and at what point could someone step in and decide that something needed to be done to them rather than for them? That is a real concern, isn't it? Many of those seniors may live in somewhat supported housing circumstances, and maintaining their independence is a similar kind of issue in those circumstances.

Mr Balcom: Yes, many of them, and I'm not naïve about this whole issue. As you may know, I'm involved on a number of committees, so I'm very much aware of what the issue is. Part of the issue as I perceive it is that as the population ages, and this goes for anybody in this room, not just young adults with disabilities, your needs change. That's the issue they were trying to address through this home care issue. But inadvertently or whatever you've created another level of vulnerability, because especially if you take away the human rights that go with it, we would have virtually nothing. We would be totally at the mercy of the landlords and/or the service providers, with no recourse.

Mrs Boyd: It's a double-jeopardy issue just exactly as was identified by Ernie Lightman in the first place, and that the Tenant Protection Act was put in to try and resolve it.

Mr Balcom: Yes. It's a boomerang effect. In the very thing you intended to protect you're helping to create a higher degree of vulnerability, because at the very time that you're doing this, you're stripping away the protections that were already existing without proposing to put anything back in its place. I realize there's a whole debate around the issues of long-term care and community care access and everything else, but that —

Mrs Boyd: And health care consent.

Mr Balcom: And health care consent, the whole issue around informed consent and all that stuff, and the substitute decision-makers act. We also have an issue — because it's really been watered down, but you certainly don't put it in this venue. You're not doing is any favours by doing so and you're not really dealing with the issue anyway.

The Chair: Thank you very much, Mr Balcom, for coming and making your presentation.

1730

Mrs Boyd: On a point of order, Mr Chair: On a number of occasions the parliamentary assistant and, just recently, Mr Wettlaufer, have talked about the disparity between taxes for residential properties that are multi-unit and those that are not and said explicitly or by implication, depending on the particular time, that tenants would benefit as a result of the change in the municipal taxation and assessment issues.

I think it's important for us to have a much clearer idea of how the government plans to ensure that any changes in the taxation for multiresidences would actually flow down to the tenant as opposed to simply being absorbed in the form of a higher rent, particularly if there's still a maximum rent on some of these units.

I wonder if I could ask that the parliamentary assistant table with this committee before we go to clause-by-clause the very clear plan by which the government plans to ensure that tenants actually get any benefit of any presumed tax drop that might occur.

The Chair: Okay, I'm sure Mr Gilchrist has heard you, and we'll have to wait to see what he will do.

LONDON AND ST THOMAS REAL ESTATE BOARD

The Chair: The next and final presenter is the London and St Thomas Real Estate Board, Nancy McCann, first vice-president. Ms McCann, good afternoon. We have your written presentation before us and you may proceed.

Ms Nancy McCann: This submission is presented by the London and St Thomas Real Estate Board in conjunction with the Ontario Real Estate Association with respect to Bill 96, the government's proposed tenant protection legislation.

The London and St Thomas Real Estate Board is an association of 1,400 realtors committed to providing its members with the structure and services to ensure a high standard of business practices and ethics and to serve effectively the real estate needs of the community. Because of the impact legislation often has on our business, we communicate frequently with politicians and civil servants on a wide variety of issues affecting realtors and real estate in general.

As the chairman of the political action committee of the London and St Thomas Real Estate Board and vice-president of the board of directors, I would like to assure the commission that the London and St Thomas Real Estate Board both welcomes and thanks you for the opportunity to submit its views on Bill 96.

With regard to the support for Bill 96, our board supports the government initiative in this policy area. The current regulatory system governing rental housing is clearly not working, for either landlords or tenants. Without a change in approach new private rental construction will remain at a virtual standstill and the existing stock of rental buildings will continue to deteriorate. In short, maintaining the status quo is not a viable option and simply ensures that a balanced rental market in most urban areas will remain an unfulfilled goal.

Bill 96 lays a solid foundation for the rebirth of the private rental housing construction in Ontario, a rebirth that is essential if tenants are to have adequate choice in terms of price and location. But more needs to be done. In particular, the bill does not address the very serious problem of high rental construction costs — costs for which governments collectively bear much responsibility. While there are promising signs regarding property tax reform, new development charges legislation in Bill 98 and in recent building code changes, the high cost of new rental construction remains an impediment to the future growth of the rental housing stock.

The London and St Thomas Real Estate Board and OREA are pleased with the general thrust of Bill 96, including the following provisions:

Protection for sitting tenants: Rents will continue to be controlled for tenants who remain in their current units.

Simple rent determination: The guideline rent increases will continue to be calculated in the same manner as in the past and there will be an allowance for rent increases to cover capital expenditures.

Vacancy decontrol: When a tenant moves out, the landlord is free to charge whatever rent the market will bear. The new tenant then enjoys protection from rent increases beyond the guideline, plus allowances for any capital expenditures.

Abolition of the rent registry: Under the new system, there will be no need for the registry and the administrative burden it now imposes on landlords and the costs it imposes on taxpayers.

No controls on new rental projects: New rental projects will not be subject to the guideline rent increases.

Abolition of the Rental Housing Protection Act: Tenants will enjoy significant protection in the event that buildings are demolished or converted to condominiums.

Specific comments:

Penalties for inadequate maintenance: The consultation paper suggested heavy penalties on landlords for "inadequate maintenance." OREA commented then that the proposed system needed balance to ensure that landlords are treated fairly. LSTREB and OREA are encouraged that the new package contains substantial changes in this area that appear much fairer than the proposals in the consultation paper.

Rent control: In its submission on the consultation paper, OREA had expressed concern with the rent reduction proposals, particularly as they pertained to "inadequate maintenance." LSTREB and OREA are encouraged that Bill 96 includes some relaxation of these proposals.

Protection of tenants against harassment: In commenting on the consultation paper last August, OREA noted its support for protection for sitting tenants against unscrupulous landlords who may be tempted to force a tenant to vacate. The association also raised a concern that landlords require protection against tenants filing false or frivolous accusations against them. In Bill 96, the harassment provisions continue to apply only to landlords. There is no provision for penalties against tenants who ignore their responsibilities. LSTREB as well as OREA believes that this is unjust and should be addressed through an amendment to Bill 96.

Tenant evictions: The association notes the government's proposals do not fully address the problem of tenants who do not pay their rent. Bill 96 does include further details on the dispute resolution system but eviction procedures will not be clear until the regulations are finalized. LSTREB and OREA both encourage the government to build in additional protections and procedures to support landlords faced with tenants who do not pay their rent.

Dispute resolution system: The real estate board supports the proposed dispute resolution system outlined in Bill 96. The system will be independent of the courts, will have application fees and will provide mediation services as well as rulings on matters such as rent increases, abatements and evictions. However, complete details on the new system are not yet available. With this in mind, both our organization and OREA will reserve final comment until the complete system has been developed.

Rental Housing Protection Act: Realtors have long opposed the Rental Housing Protection Act as a violation of owners' property rights and applauds its proposed abolition. However, the association supports the measures in Bill 96 to ensure protection of sitting tenants and purchasers of units being converted, as does OREA.

Property tax reform: LSTREB and OREA remain concerned with the negative impact of property taxes on rental housing. Rental properties pay much more in property taxes than comparable ownership accommodation. This is unfair and will continue to be an impediment to new investment in rental construction. The impact of the government's recent property tax reform, removing parts of education and adopting actual value assessment, is as yet unclear. We support the provisions in Bill 106 that will allow municipalities to place new apartment buildings in a new property tax class with a lower tax rate. We are concerned that municipalities may not be willing to forgo the taxes such a change would entail.

In summary, the London and St Thomas Real Estate Board, along with OREA, strongly supports Bill 96. If adopted, it will redress many of organized real estate's long-standing concerns. While more needs to be done to encourage multiresidential construction, particularly reducing costs and reducing property tax inequities, we believe the tenant protection legislation will aid in restoring balance between landlord and tenant interests.

The Chair: Thank you, Ms McCann. Mr Duncan?

Mr Duncan: Thank you for your presentation. I have no questions.

1740

Mrs Boyd: I am curious. Why do you think municipalities charge higher taxes for multiresidential properties than for single dwellings? What's the rationale? There must be one. Most of our municipal politicians are quite business oriented.

Ms McCann: I'm not aware, Marion, of why that precedent has been set.

Mrs Boyd: Let me suggest to you it's because municipalities have to provide services to people, and that if you have, as in the apartment building where I live in the city of Toronto, 1,000 tenants, those 1,000 tenants are using the services of the city. If the property tax were charged as if it were a single dwelling, that wouldn't be very fair, would it?

Ms McCann: No, and it obviously isn't going to be charged at the rate of a single dwelling, but the cost per unit could be reduced substantially as opposed to the rate that it's at now.

Mrs Boyd: It depends entirely on the municipality, doesn't it? There are quite substantial changes. I'm just curious about that, because the government members keep saying that municipalities should jump at the chance to change this, and my sense is that municipal councillors all over the place are as anxious to have a supply of affordable housing as anyone else is.

Ms McCann: Certainly.

Mrs Boyd: Yet they have certainly not been eager to look at that change in property assessment and must have some reason for it, and I'm always curious that the reason for the differential is never mentioned.

Ms McCann: As I said, I'm not qualified to answer specifically what that is. I think that our concern relative to municipalities being reluctant perhaps to move forward on this is simply, as we all know, with downloading situations that are occurring from one government level to another, property tax is one of the last areas that the municipalities have to raise their funds. We recognize that the door is being opened for this to be rectified. We would just like to be sure there is some assurance that there will be some benefits from this.

Mr Gilchrist: Thank you, Ms McCann. I appreciate your coming forward to make your presentation. I feel forced to follow up on Ms Boyd's comments. I think there is a pretty good rationale. Let me just read you a little quote, November 10, 1994, from the then prospective mayor of the city of Toronto, every tenant's friend, Barbara Hall:

"I am outraged that you pay a significantly higher rate of property taxes than anyone else. You don't even know how much tax you're paying because it's hidden in your rent. This must change. I voted to send you clear information on the property taxes you pay as part of your rent because I believe you have a right to know."

It's unfortunate that in the three years she has been mayor, Ms Hall has not seen fit to enact that provision or in fact to bring fairness back.

I will give you another scenario to that posited by Ms Boyd. It was an easy, opportunistic, tax grab against people who are perhaps less politically involved, and in particular, because it's hidden in their rent, less aware it's even taking place. I share your concern about the impact, and I guess I'm frustrated by something else.

Here we are, within two days of the hearings wrapping up. We have had well over 100 presentations. Only one tenant group has ever put it on the record that they've ever even championed this issue, yet, at the same time, they're concerned about affordable housing. Well, if you take off all units, not just the top end, that same disparity, which here in London would average I would guesstimate somewhere between \$50 and \$60 a month, obviously for those paying \$400, that's the biggest percentage from any source. Imagine a 12% reduction in your tax overnight, and not one penny of that would go to the landlord; 100% of that will flow through, thanks to this bill, to the tenants. I appreciate your raising the issue.

The only other thing I'd like to comment on is you address a couple of points, outstanding concerns, and I must say, we are sensitive, we've heard a number of presentations across the province from both sides that there are

areas in this bill where the treatment of one party was not identical to the treatment of others.

In your case, you single out the issue of harassment, that there are very explicit clauses dealing with the harassment of tenants by landlords, but there's nothing that comments about harassment in reverse, particularly in the context of people holding up an eviction or abusing the court process currently, which would in future be the tribunal process. We're very sensitive to that, and I'm confident that we'll make sure that, for all those areas of disparity that have been raised, by the time you see the amendments tabled, you'll see further movement towards a balance there.

Ms McCann: I think balance is the key to the success of the system. It has to be good, both for the landlords and the tenants, and our association certainly recognizes that.

Mr Gilchrist: That is certainly our goal as well. Thank you very much.

The Chair: Thank you, Ms McCann, for your presentation.

Mr Duncan: Could I place a question?

The Chair: Yes, Mr Duncan.

Mr Duncan: I'd just like to place a question to the parliamentary assistant. It's not necessary to answer it now unless he chooses to, but some time before clause-by-clause. What sections of the bill ensure that any decreases in municipal property taxes will be passed through to tenants?

Mr Gilchrist: As you're aware, Mr Duncan, I'm sure, having read the bill, presently a landlord can flow-through an increase. Very early on in the process, in fact I think even before we went to committee hearings, the point where it said that decreases would be responded to on the basis of a request by a tenant, we saw the ability to procedurally improve that. I can tell you, you will see amendments brought forward that would make it just as clear for decreases as well as increases.

Mr Duncan: But they're not presently contained.

Mr Gilchrist: By the time we get to clause-by-clause, you will see that.

Mr Duncan: But you had indicated that the bill already provides —

Interjection.

The Chair: Mr Duncan, Mr Gilchrist, I'm going to allow questions but I'm not going to allow a debate. We'll have to save that.

Mr Duncan: I'm sorry. I hate to do things like that.

The Chair: I understand that, but we'll have to wait. That goes for you too, Mr Froese.

Ladies and gentlemen, that concludes the public hearings here. These proceedings will reconvene in Windsor tomorrow. Accordingly, I adjourn the proceedings until tomorrow at 9 am at the Windsor Hilton.

The committee adjourned at 1748.

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Standing committee on general government

Tenant Protection Act, 1996

Comité permanent des affaires gouvernementales

Loi de 1996 sur
la protection des locataires



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 13 August 1997

Mercredi 13 août 1997

The committee met at 0903 in the Windsor Hilton, Windsor.

TENANT PROTECTION ACT, 1996
LOI DE 1996 SUR LA PROTECTION
DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies / Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

CANADIAN MENTAL
HEALTH ASSOCIATION,
WINDSOR-ESSEX COUNTY BRANCH

The Chair (Mr David Tilson): Good morning, ladies and gentlemen. These are the public hearings of the standing committee on general government reviewing Bill 96. We will start with the first delegation, which is the Canadian Mental Health Association, Windsor-Essex county branch, Alan Stevenson. Good morning, sir. You can proceed when ready.

Mr Alan Stevenson: Mr Chair and members of the committee, on behalf of the Canadian Mental Health Association, Windsor-Essex county branch, I want to thank you for the opportunity to present some of our views regarding Bill 96 for your consideration.

The Canadian Mental Health Association, Windsor-Essex county branch is an incorporated, non-profit, registered charitable organization locally established in 1971. We are one of 36 branches in Ontario having membership with our provincial and national associations. The Windsor-Essex county branch has approximately 240 active volunteers who provide direct program support as well as board and committee services. The branch has a rich history of providing mental health services in this community through education, prevention, advocacy and support services. The programs and services provided by the Windsor-Essex county branch are funded by government grants, the United Way and supplementary fund-raising activities.

CMHA, Windsor-Essex county branch has made significant contributions to the development of housing programs in this community. We strongly advocate for the development and maintenance of housing and support for

consumers of mental health services, as we believe that adequate, safe and affordable housing is the most basic of human rights.

We welcome this opportunity to respond to the second reading of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies.

To fully appreciate the importance of stable housing for people with serious mental health difficulties one must understand the experiences of people with mental illness. The nature of most mental disorders is cyclical, such that relapse is in fact a reality of living with a psychiatric disability, but recovery is also possible. This is in contrast to other types of disabilities that are generally constant or require increasing care over time, such as developmental delays and disabilities due to aging. In this context, we believe that a person's supports should increase or decrease as his or her mental health needs and circumstances change. Supports and housing based on individual choices and needs significantly improve the likelihood that people with serious mental illness will maintain a stable housing situation.

The primary source of stability and security for all people is often a living situation which feels like home. Indeed, the Ministry of Health recognizes that a stable supported living environment is essential for consumers of mental health services. For persons with mental illness, control over their environment is especially important. Satisfaction with housing is correlated with an increased ability to cope in the community and the likelihood of successful tenancy. Housing is a basic right for all people, but this right is especially significant for people with psychiatric illnesses due to things like poverty, discrimination and complex social issues. Therefore, we believe it is housing supports that should be flexible and portable, and not tenants who need those supports.

We believe in the principle of affordability, that is, people have adequate financial resources to pay for decent housing. Rent costs must reflect the reality of the lack of adequate income for mental health service consumers. Any decrease in rental cost protection and subsequent increase in rental costs may limit housing choices for people with mental illness. Therefore, our organization supports continued coverage of the rent control guideline and notice periods for tenants to protect housing for persons with mental illness.

However, we suggest that the focus of rent control should be on units, not on tenants, as proposed by the

Ministry of Municipal Affairs and Housing. Removal of rent controls on initial rent for vacant units and exemption for new constructions will mean that accessibility to housing will be jeopardized because landlords can increase rent on vacant units or set new unit rents at any level they desire. A lack of controls on vacant and new units will mean that the number of units accessible to tenants on limited incomes, such as people with mental illness, will decrease. Removal of rent controls will result in fewer affordable housing units. This may force tenants to either endure inadequate housing or move into adequate housing with increased rent. Finally, removing controls on vacant units also provides an incentive for landlords to evict existing tenants, as they can increase the unit cost once it is vacated.

We are pleased to see that landlords will still require permission to raise tenants' rents above the guideline. CMHA, Windsor-Essex county branch supports retention of a rent control guideline formula as proposed by the legislation. We also endorse the proposed limit on capital expenditure increases to 4% above the previous lawful rent and the preservation of a tenant's right to make a rent reduction application due to a reduction or elimination of services or facilities.

However, CMHA, Windsor-Essex county branch has concerns about permitting landlords and tenants to negotiate rent increases above the guideline for any prescribed service, facility, privilege, accommodation or thing. For tenants who are vulnerable, the landlord may use his or her power to influence the tenant to pay for new services, facilities etc that are unnecessary. It will be difficult for the tribunal to determine if a tenant entered into an agreement by coercion or misleading representation.

It has been almost two years since the ministry implemented the first phase of its framework for housing, that is, ending subsidies for the development of new social housing. The government has also introduced a 21.6% reduction to general welfare assistance. The Ministry of Municipal Affairs and Housing business plan for 1996 stated that the government will develop a shelter allowance system by 1997-98. Many consumers of mental health services receive social assistance and have been affected by reduced income for housing.

0910

The lack of affordable housing, combined with a lag in the development of the shelter allowance system, may have a significant impact on persons with mental health problems. Inadequate or unstable housing may result in increased hospitalization, which is very costly. Although CMHA recognizes the time required to make policy decisions, we would urge the government to make access to affordable housing a priority.

At present, the Human Rights Code calls for equal treatment for occupancy of accommodation without discrimination on the basis of various factors, including disability and receipt of public assistance. CMHA understands the need for landlords to make credit checks, credit references, obtain rental histories and guarantors. People who are homeless, and who often have a serious mental

illness, may not have these types of records. We urge the ministry to ensure the landlords are sanctioned if negative inferences are drawn in situations where these records do not exist or are inaccessible.

The proposed amendments to the Human Rights Code through this act will allow a landlord to use income information to determine the occupancy of residential accommodation. This amendment will legalize discrimination by landlords against applicants who have a limited income or receive social assistance, many of whom have a psychiatric disability. We recommend that the phrase "income information" be removed from the proposed amendments to the Human Rights Code. Income criteria should only be necessary for determining eligibility for rent-geared-to-income, non-profit or public housing.

The CMHA endorses an Ontario Rental Housing Tribunal, as the current process is very complex. Decisions should not be based on the influence of a particular lobby group but rather on the specifics of an individual case. This means that it will be critical for members of the tribunal to be objective and to state any conflict of interest. The CMHA understands the minister's need to set temporary guidelines for the tribunal until its rules and guidelines committee is functional. We urge the minister to establish a maximum time limit of six months for the committee's functioning to ensure that the tribunal becomes independent from government as quickly as possible.

We suggest that vulnerable tenants, such as people with mental illness, should be provided with a case manager who would guide the tenant through the tribunal process from beginning to end. The provision of legal aid funding would provide additional opportunities for vulnerable tenants to seek support for the tribunal process. The notice of termination given by a landlord should inform the tenant that he or she is entitled to dispute the application and, in care homes, provide a contact name to assist in the dispute.

We support the tenant and/or landlord's right to appeal the decisions and orders issued by the tribunal. CMHA recommends that the government support tenant advocacy for appeals through the court system.

Section 3(k) of the Tenant Protection Act exempts:

"living accommodation occupied by a person for the purpose of receiving rehabilitative or therapeutic services agreed upon by the person and the provider of the living accommodation, where,

"(i) the parties have agreed that,

"(A) the period of occupancy will be for a specified duration, or

"(B) the occupancy will terminate when the objectives of the services have been met or will not be met, and

"(ii) the living accommodation is intended to be provided for no more than a one-year period."

As stated previously, it is our position that to the fullest extent possible, it is the housing supports that should be flexible and portable, and not the tenants who need these supports. It is our concern that if the time frame is increased from the six-month average length of stay that it is

now to the intended one-year length of stay, housing that under current legislation does not qualify for an exemption may in fact qualify under the proposed legislation. Subsequently, more people with serious mental illness will not be afforded tenant status with the rights and responsibilities prescribed by the act.

If the time frame must be increased from the six-month average length of stay to a one-year intended length of stay, the legislation must include due process procedures for evictions in exempt care homes. If there is no legislated process, housing stability for mental health consumers may be seriously undermined.

In conclusion, the Canadian Mental Health Association, Windsor-Essex county branch believes that the Tenant Protection Act will reduce protection currently available to tenants in several ways as previously identified. We are very concerned that people with serious mental illness, who are among the most vulnerable of citizens, will be further marginalized by decreased access to safe, affordable and secure rental accommodation. Thank you.

The Chair: Thank you very much, Mr Stevenson. There is time for questions if you're prepared to entertain questions.

Mr Stevenson: Sure.

Mr Dwight Duncan (Windsor-Walkerville): Thank you, Mr Stevenson, for your thoughtful presentation. I was curious about a couple of issues that you raised and I'd like to explore them a little bit more with you.

The first had to do with your endorsement of part VIII of the act, which creates a new tribunal. We in the official opposition generally support the need to have a more efficient process. Other groups, however, have argued that they're concerned that a tribunal have properly trained people on the tribunal itself and that there be a due process established under it, and I've been wrestling with this notion. On the one hand, you want to try and unencumber the process, but on the other hand, there's a need for process.

You've recommended tenant advocates who would represent those with mental illness who are appearing before the tribunal. Do you see this tribunal possibly developing into almost a quasi-court? I think of the Workers' Compensation Appeals Tribunal as another example where government has attempted to demystify the process somewhat and wound up creating something that was even more complex. I just wonder if you could expound on that a little bit.

Mr Stevenson: I'm not sure. I would certainly not, and our organization certainly would not, want to see something become more complex. For many of our clients who are very vulnerable, the amount of stress in a situation such as appealing an eviction notice can cause them a relapse. We want to ensure that whatever process the tribunal puts in place is simplified and reduces that level of stress. That's in part why we see the need for advocates. As much as many of our clients who have serious mental illness require clarity and someone to advocate to demystify and put into simple language the type of situation or process or law that they're dealing with, they also

need someone to provide them with emotional support, because very often, as I said, they can experience increased symptoms and often lose the ability to advocate for themselves. So whatever process is put in place, we would like to see it simplified.

Mr Len Wood (Cochrane North): Thank you for your presentation. You're concerned about the people who have mental problems, and I understand from statistics that up to one in ten in their lifetime could be affected by that. When you're looking at the legislation coming through, is this going to make rental accommodation more available with the type of legislation that you see here?

Mr Stevenson: I do not see that at all. My concern and the concern of our organization is that rental accommodation will become more scarce, particularly affordable accommodation. I have a concern about the communication with or the lack of coordination with policies in other ministries. Certainly the Ministry of Health is currently leading mental health reform, a 10-year process to downsize psychiatric hospitals and institutions. Many of those people are very vulnerable and require supportive housing, require affordable housing. I'm not sure how those people are going to be housed in a community like Windsor when rental accommodation is going to become even more scarce and affordable accommodation has become much more scarce.

Mrs Julia Munro (Durham-York): I would like to ask you a little about issues you raise. For instance, you talk about vulnerable tenants, and you also have a question regarding the ability of landlords and tenants to negotiate rent increases, that it would be difficult, obviously, for tenants who are vulnerable. What this suggests to me is that you see a distinction between people who are or who are not vulnerable. Is that fair to say?

Mr Stevenson: I don't think the law should distinguish between them. However, my organization represents people who are vulnerable, people who have serious mental illness, and that is my greatest concern.

The Chair: I'm sorry, we've run out of time. I'm sorry to cut people off, but we've got to keep moving. On behalf of the committee, I thank you for coming here and making a presentation to the committee.

0920

CITIZEN ADVOCACY WINDSOR-ESSEX

The Chair: The next presenters are Joyce Zuk and Nimali Gamage, who are speaking on behalf of Citizen Advocacy Windsor-Essex. Good morning.

Ms Joyce Zuk: Good morning. I'm sure by this stage in the hearings you've heard it all, but we are grateful for the opportunity to appear before you this morning and to speak specifically for the clients we represent. My name is Joyce Zuk, and I'm the executive director of Citizen Advocacy Windsor-Essex. With me this morning is Nimali Gamage, who has prepared the presentation on behalf of our agency and our clients.

As I mentioned, we are pleased to have the opportunity to address you and to take part in the process of commu-

nity hearings. As an advocacy organization, we advocate for community hearings.

At this time, we'd like to provide you with a very brief overview of our agency and explain how some of the sections of Bill 96 we believe have the potential to adversely affect our clients. Given the stage in the hearings, we are going to keep our comments very brief. We just want to highlight sections of the act which we feel directly affect our client group.

Citizen Advocacy is a non-profit organization that provides non-legal advocacy to seniors and adults with disabilities in the community. Citizen Advocacy Windsor-Essex began its program in 1974. Our agency first focused on adults with developmental disabilities, but soon expanded its focus to all people with disabilities and those experiencing problems due to aging.

In May 1982, a permanent office was opened in the community. Today the program supports individuals with developmental, physical and psychiatric disabilities, as well as seniors throughout Windsor and Essex county. Our clientele is comprised of individuals who are at least 18 years of age and have a physical, psychiatric or developmental disability and/or are a senior. These individuals are eligible for our program if they are socially isolated and lack support systems. This means that friends and family members are not available to provide support on a regular basis, and our clients are often unable to speak on their own behalf and therefore require an advocate.

In such cases our organization aims to help our clients integrate into the community, guard against discrimination or exploitation and assist them with practical needs. In 1996, 39% of our clients required assistance with matters pertaining to rental housing. Our organization believes that certain aspects of the proposed Tenant Protection Act will drastically hinder the quality of life for all tenants but especially for our clients who are most vulnerable to a power imbalance in favour of landlords. The proposed changes we believe undoubtedly disadvantage those individuals who require affordable housing and those who are on a fixed income. A majority of our clients fall into this category since many seniors and people with disabilities are unable to work.

Our brief will outline the various sections of the proposed Tenant Protection Act that we believe will adversely affect seniors and adults with disabilities and specifically in our community. I now turn the mike over to Nimali Gamage.

Ms Nimali Gamage: The proposed Tenant Protection Act makes a change to the Human Rights Code to allow landlords to check a tenant's credit rating and their level and type of income when they apply for an apartment. As mentioned before, a majority of our clients receive public assistance as a result of their age or disability. This change to the legislation will allow landlords to refuse housing to a majority of our clients solely because they receive public assistance. This practice discriminates against our clients because it jeopardizes their chance to find affordable housing on the basis of their disability and/or age.

The Tenant Protection Act makes it easier for landlords to evict tenants. Eviction notices no longer have to provide details of the reasons for eviction in most cases. Therefore, it will be harder for tenants to stop evictions where the landlord is trying to get back at them for exercising their rights and easier for landlords to start the eviction process without any substantial reason.

Under the Tenant Protection Act, agreements to terminate no longer have to be in writing for a landlord to proceed with an eviction. The landlord need only swear that the tenant agreed to leave. This change to the legislation is of concern to our clients who are vulnerable and may therefore be unjustly evicted and may not fully understand that they could have attested the eviction or how they could have done so. Therefore, the potential for abuse is present.

Under the Tenant Protection Act, care home landlords may force tenants out because they want to repair or renovate the home. In such cases landlords are required only to make reasonable efforts to find appropriate alternative accommodation for care home tenants. Our concern with this part of the legislation is that it does not specify what accommodation is considered appropriate and it does not define what would be a reasonable effort by the landlord. As a result of such vagueness, we fear that our clients who reside in care facilities will be forced to live in inadequate housing during times of renovation or repair or be forced to secure alternative housing without support or assistance.

Perhaps the biggest concern of the Tenant Protection Act for our clients is that it removes many of the existing financial protections for tenants. When a tenant moves out of an apartment, there will be no legal limit on the amount of rent the landlord can charge the next tenant. Consequently, new units will be exempt from rent control forever. Landlords will be looking for reasons to evict current tenants so that they can increase the rent for the incoming tenant. Fewer units will have the utilities included in the rent and tenants will have to compete with each other for accommodation.

Our clients will be adversely affected by this part of the legislation because a majority of them have a fixed income. Many of our clients are receiving public assistance because they are unable to work as a result of either their disability or their age. These clients do not have the option of getting a second job in order to afford an increase in rent. In other words, they do not have the resources to compete for accommodation.

The provisions for a housing tribunal in the Tenant Protection Act do not enhance the already existing rent control tribunal. It does nothing to make the tribunal more accessible to the public. There is no mention of any services that encourage accessibility, leaving the issue entirely up to how the government sets up the tribunal and whether it funds it adequately.

Our organization feels that this lack of concern for making the tribunal accessible is a blatant disregard for people who are limited as a result of their age or disability. Many of our clients encounter limitations in dealing

with the practical aspects of daily life. Sometimes they are cut off from association, opportunities and even their fundamental rights. As a result, they have become isolated from the rest of society. The inaccessibility of this tribunal exacerbates such circumstances of isolation.

In conclusion, we urge this committee to re-examine Bill 96 in the light of the issues we, along with many others, have raised. We cannot forget that when amending or making rules, regulations and laws that govern our society, we must keep the needs of those who are the most vulnerable at the forefront in the process to ensure that those who are unable to guard against discrimination are protected.

Thank you for allowing us this opportunity to contribute to these hearings.

Mr Len Wood: Thank you for your presentation. I get the impression that the feeling of not only your group but others is that this legislation is really an attack on vulnerable people, the disabled and the elderly. When you compare what happened from 1986 to 1990, when Liberal legislation allowed rents to go up 10%, 20%, 30%, 40% at a time, now we're seeing legislation that could be an attack on that section of society and leave them very vulnerable. What's your feeling on that?

0930

Ms Zuk: The point we want to emphasize this morning, as our colleague from CMHA stated just prior to us, is that we're dealing with a group whose income is fixed, and as it stands now, it doesn't have the potential to go up. That's not going to change. The income level of our clients is not going to change and there is a great potential for rents to go up. We believe we're dealing with a situation where people are going to be in competition to find not only affordable housing but adequate housing. We don't want to talk about affordable and adequate in two separate debates, because they're one and the same. Affordable housing has to be adequate housing too. I think we need to have a whole discussion around the issue of what adequate housing is, what a reasonable standard of living is for people.

Mr Len Wood: The way I see it could happen is that landlords, with very little notification, could give people notice to move. As they're looking around for other accommodation, the number of homeless people could continue to increase, because as they're evicted from their apartment and shop around for another one, the rents are going up. We know that people move out of rental accommodation at least every five years, some more often than that. Now that we have the right to evict, where do these people end up? They have 60 days to get out and it takes them six months to find other rental accommodation.

Ms Zuk: You have identified the fact that we already have a homeless problem in this province and that could increase. What we see at our agency more often than not is that people are living in substandard housing, and that's something that greatly concerns us. They're living in illegal apartments, illegal basement flats, and the level of housing — I really wish I could have brought photos or taken you all for a day with us to see some of the condi-

tions our clients are living in. I think you would be shocked.

Mr Len Wood: I guess the same thing applies in Windsor as applies in Toronto or other communities, the conditions of a lot of the apartments if you want something you can afford, if you're disabled or on a fixed income, and you also try to keep enough money for food and whatever. Some of the conditions existing now are bad. Is allowing landlords to increase the rent, and letting them use eviction notices and that, going to help the situation? Is there going to be more rental accommodation available?

Ms Zuk: In our community, I would say not. The government has stated that increased competition for housing will force the rents to actually go down and landlords will have to get competitive to compete. Perhaps in some scenarios that would work, but in our community of Windsor and Essex county, where there is already a shortage of rental units, when we're talking about a vulnerable population that is not always informed of what their rights are, this act does not have a lot of protections for that client group.

Mr Steve Gilchrist (Scarborough East): Thank you both for taking the time to make your presentation this morning. I would like to follow up on an inference Mr Wood has just made, that the status quo is clearly not acceptable to your group. You talk about inadequate housing for many of the people you're serving. You're talking about waiting lists. You're talking about problems that exist in landlord-tenant relationships. Would you agree with me that there are problems that exist in housing?

Ms Zuk: Yes.

Mr Gilchrist: Well, that's a good starting point. Let me deal with a couple of the things in your submission. I think it's quite unfortunate that certain lobby groups have been going around spreading information that, to be kind and parliamentary, has to be described as disinformation or misinformation.

First off, all evictions will have to continue to provide the reasons 100%. That doesn't change. The problem between oral and written tenancy agreements exists today. This act doesn't change that in the slightest. But what it does do now is provide for a 10-day setoff period for the tenant. The tenant, once notified that they've been evicted or that the tribunal has ruled in favour of the landlord, will have an additional 10 days now to respond and to go back to the tribunal if he or she disagrees with the original ruling or did not even get a notice of the landlord's first appeal. That's not a right that exists today.

Perhaps the most troubling of all the points in your submission and one that I really must take a minute to rebut is that somehow the addition of — the comment about income check is that it's taking away a right.

It's adding another protection. In Ontario today, it is absolutely, positively legal for a landlord to ask for your income. There is nothing in the Human Rights Code that prevents it. There's nothing in any other statute that prevents it. The problem is that because it is not mentioned in the Human Rights Code, a landlord today can use that information to discriminate against you. He can't use the

source of your income. That's provided in the code, and that stays. If you're on government assistance, the landlord cannot use that as a rationale to deny you accommodation. But he can use income today.

This bill puts it in the code and states quite explicitly — a lot of people dwell on the first section of our section 200 of the bill, but they conveniently ignore that there's a part (2) that says the regulations will then prescribe the only manner in which the landlord can use that. That's wording similar to what's in the code today about things such as source of income. The irony is that the groups coming before us and saying, "Don't include this in the act," would perpetuate a system where a landlord can ask for the information and can discriminate with impunity.

We believe that putting it in there is essential for one very simple reason: Many people have come before this committee and talked about the situation where a woman may have left an abusive situation, where the husband may have had all the credit history and may have signed all the leases in the past, so there's no tenant history either. The groups have said, "We believe it's appropriate for landlords to be able to ask for credit checks and to ask for tenancy history and to make their judgement on the basis of what they hear." For that woman coming forward, the credit check would come up negative or non-existent and the tenancy history would come up negative or non-existent. The landlord, they've submitted, would then have the right to deny them accommodation, even if that woman is gainfully employed and is earning a good income. Clearly, it's in the interest of people to have that weapon in their arsenal, and we think this adds another protection.

Mr Duncan: Well, we think your arguments are spurious and don't reflect the reality. I'd like to quote from the presentation that the chair of the Ontario Human Rights Commission made to this committee, the Honourable Keith Norton, who had been a member of the Davis government and was appointed by your government.

"In the commission's experience, single mothers on public assistance will not be the only ones to suffer should income criteria be implemented. Income criteria will severely restrict housing opportunities for seniors, persons with disabilities, refugees and new immigrants, teenagers and countless other disadvantaged persons. The commission presently has three distinct cases before the board of inquiry," and it goes on.

The point is that neither the commission nor too many other people argue that a landlord ought not to be able to check credit rating and so on, but income source will clearly discriminate against the poor and the vulnerable.

I want to come back to a couple of questions related to your presentation. I'd like to point out to the government members that we have had countless presentations now from people who have a certain expertise in the process and the procedure, and generally — for instance, the Halton Hills Legal Clinic yesterday talked about mandatory disputes in writing, times for filing disputes, all of which prejudice particularly vulnerable clients.

My experience in these matters is that the current system of dispute is very burdensome and very difficult, even

for those who have some expertise to understand. As advocates for the vulnerable, do you see a need for improvement in that? You've expressed concerns about what the government has presented. I'd be curious to know if you have other ideas, things that could make this system work better for your clients and others who find the whole system very cumbersome.

Ms Zuk: We were in favour of the Advocacy Act, which would provide for a network of advocates province-wide to represent vulnerable people in situations, and perhaps that of rental problems could have been one. But yes, the problem is very onerous. As I mentioned to you, 39% of our clients last year requested assistance with problems pertaining to rental properties where they were living. Most of those cases we had to refer out to legal assistance of Windsor or the bilingual legal clinic, because for an agency like ours that's assisting vulnerable persons in a number of areas, it's very difficult to keep on top of legislation, processes, and in fact that's not our role. It's to help vulnerable individuals get connected to service. But I know the clinics are doing an excellent job to assist clients such as ours to resolve problems.

But yes, the process is a long one, and if it eventually is one where you have to go to court, and now the proposal of the housing tribunal, any process like that is intimidating to someone who isn't always fully aware of their rights and is trying to access a system where they've not been able to access such basic things as affordable housing, adequate food. Hooking people up to services is our business, and we can tell you that people who have disabilities and seniors have a difficult time hooking up to service.

The Chair: Ms Zuk, Ms Gamage, unfortunately we are out of time, but we thank you for coming and making your presentation to the committee.

Ms Zuk: Thank you very much.

0940

ESSEX LANDLORD AND LANDLADIES ASSOCIATION

The Chair: The next presenter is Don Barratt of the Essex Landlord and Landladies Association. Good morning, sir. You may proceed when ready.

Mr Don Barratt: Good morning. Landlords have a very tough time trying to keep their costs down, to keep the rents low. I have spoken before to the ministry about the problem. We have no control over property taxes, and the municipalities tax us higher than they do regular houses, and town houses are taxed higher than comparable private or government-financed buildings.

Hydro: That's a government body. They charge landlords 8.65 cents per kilowatt, but they charge tenants or house owners 8.02. So the landlord is paying more than anybody else, which has to be added on to the rent somewhere, especially as they are providing all the utilities in that building, and there are many like that in Windsor. Until recently, public utilities commissions and Hydro

forced landlords to pay the bill of tenants who refused to pay. A lot of people don't know that, but that's a fact. Landlords took a municipality to court and the judge agreed that it was against their rights, and that's been changed now.

We need the same rights as government-subsidized co-ops, etc. Let landlords have a security deposit of \$500 for each unit, regardless of the monthly rent, to keep it simple. So \$500 right across the province — scrap the last month's deposit, which can be only used for rent — with the \$500 to be paid to the Ministry of Housing for safe-keeping. If the tenant claims a repair is too high, the Ministry of Housing sends out an inspector to estimate it. This plan is very simple and will protect tenants. It will keep everyone's costs down, including the rent. Tenants wouldn't break leases or do damage if there was a deposit in place like that.

I spoke about this to Dave Cooke, NDP, and he didn't even consider it. I strongly urge the Ministry of Housing to implement this. I think a lot of the decent tenants would be happy to only have to put up \$500 instead of \$800 to equal the last month's rent. The ministry could even get the interest on it, instead of the wicked landlord getting 3% or 2.5%, whatever it is.

My other point is that Ontario Housing is sucking away our tenants, because the rents are much lower and everything is much nicer: newer appliances; you won't even see a dandelion in the lawn on an Ontario Housing unit. There are many, many people in there who should not be. They are overhoused. I know for a fact there are single people in three-bedroom houses, and the taxpayer is subsidizing that unit maybe \$12,500, \$13,000 a year because the tiny rent they pay hardly covers the taxes, let alone anything else. There are even single people in three-bedroom houses. Single mothers with a tiny baby who should be in a one-bedroom unit get a 1,000-square-foot house. So please don't try to say there's a housing shortage in this province. I've been in this province 40 years and I've had property in different cities, and I think developers have done a wonderful job providing accommodation for tenants.

Rent increases: If the controls are scrapped, that's absolute nonsense. I've got a few figures here. Any politician is welcome to come to my office and check my rent roll. Some of you have this sheet I'm reading from.

January 1993, unit 6: I was charging \$522 a month; May 1997, \$530. Eight dollars gone up in four years. Now where does this gouging landlord business come in? The legal rent for that unit is \$644, and I'm only charging \$530. If you scrap the rents today, my rents will not go up a nickel.

Unit 31, January 1994, I was charging \$685. May 1997, I was charging \$629. It went down. It didn't even go up. The legal rent for that unit is \$1,100, and I'm charging \$629. I wonder why. I'll tell you why. The subsidized units are sucking away my tenants.

May 1993, unit 38, I was charging \$640. Guess what? May 1997: \$600. It dropped \$40. The legal rent is \$908. I really don't know why you have all these hearings right across the country costing taxpayers millions of dollars.

All you've got to do is go to the files of the Ministry of Housing and look at where landlords have been asking for raises because their mortgage jumped up multi-thousands of dollars with people who are screwing off owing money.

This new legislation fining landlords \$50,000 for harassing tenants: I've never harassed a tenant in my life. Mind you, if I knock on their door once a week for a month because they owe the rent, some of them call that harassing. The tenants should be fined \$50,000 for harassing the landlords or other tenants. I don't see that. I've heard all these crybabies about discrimination. We're the most discriminated people in the province. You're charging a landlord \$50,000 for harassing a tenant. The tenant can do it for free. Where is the justice here?

The pet law: Scrap the law forcing landlords to take in pets — snakes, pigs, large dogs and whatever they fancy. The legislation says "pets." It doesn't say a pussycat. It could even be a tiger. That's what we have to put up with, and it upsets the other tenants, not just the landlord.

A few weeks ago I had to repair a roof of a house. It was a decent day, not raining, so it was essential to do it during working hours. It was about 11 am. The tenant objected to me working on the roof. It wasn't a big job; it was only a half-hour job. She said: "The baby's sleeping. It's going to disturb the baby." I said: "Look, it's working hours. It's a nice day. I have to do it while I've got the chance. There's no problem. Just take the baby downstairs in the living room." I had a helper with me, thank God. So she was kind of ticked off. We got the ladder up and I started to climb the ladder. What does she do? She ran up the stairs, pulled the drapes back and took off her shirt, and I'm climbing up the ladder and this hit me right in the eye. I'm not 21 any more. I almost had a bloody heart attack and fell off the ladder. That bitch should be fined \$50,000. That's harassment. It wouldn't cost her a nickel. She came down and told my helper: "The landlord's a pervert. He was looking at me in the bedroom." He was my witness. These are the things you have to put up with.

0950

If you put in legislation that a landlord could be fined \$50,000, let's have equal rights here. The tenants should be charged for harassment. It's very, very rare that a landlord harasses tenants. I don't know why he would harass his customers. I've never heard of Eaton's training their staff to call the customers names and harass them. Landlords don't either. Naturally, if they don't pay the rent, they have to get an eviction notice. That's not harassment. Asking for rent is not harassment, but that's the type of thing we have to put up with.

A lot of these people will say, "Well, if the landlord is losing money and he's so persecuted, why doesn't he sell the building?" Take a look at this. These are real estate facts and figures, this whole page here. There are 80 apartment buildings listed; there are five sold. All the rest of the buildings expired. There's another page: 80 listed, five sold, all expired. There are no lineups of people to buy these places.

I'm amazed at all the stories I hear and these people here that are crying the blues, how rich the landlords are,

making a fortune. The only way I make it is to work 80 hours a week. My place is up for sale, but no takers. I did have a building in Cambridge which was sold, thank God, but that building was a real pain. I had it a year and a half. The mortgage jumped from 10.5% up to 18.5%. That was I think 1982 or 1981.

I couldn't rush out and give everybody a raise in the rent to cover the mortgage. I was losing at least \$50 on each unit. I didn't see that in the paper. What I should have done was walked away from the building and let the bank take it over, but I didn't. I wish I had now. Anyway, what I'm getting at is that this is not an easy business even without controls, but when we get kicked from one side to the other by different politicians, it's pretty rough. I say we should have an equal playing field.

Why not give us the same rules as the co-ops? They can charge a key deposit, a damage deposit and last month's rent, the whole kit and caboodle. We can only ask for one month's rent. Many times we don't even get it because we're desperate to get somebody to take an empty unit. We let them in without the last month's rent, and then half the time they take off owing it.

There are some more facts and figures here.

Social housing: Subsidized housing is expensive. The Provincial Auditor — this is not a landlord group that put this together — estimates the annual money on a unit as \$12,500 per year. My God, why don't you give the person \$12,500 so he can go buy a house? It would be cheaper. Mr Harris had the right idea when he said he was going to copy the British method to sell off all the Ontario Housing to the tenants.

Here's a glaring case. My goodness, these people would be happy to buy. Sell it to them without a down payment, 100% mortgage. This is what they're doing in Britain with these units. They're selling them at a bargain price, but I think myself it would be much cheaper to give these people \$12,000 than give them a unit. You could have something so you could get it back or if they screw up they'll never get another house. I'm sure there are better ways than sucking the taxpayers dry: \$12,500. I could go on and on and on.

What the landlords have been pushing for is to subsidize our units just like you're subsidizing the co-ops. The estimate would be between \$1,500 and \$3,000 a year. That's a vast, vast difference from the \$12,500.

This lady that was recently up here trying to put her case forward about people that have disabilities, if there's a shortage in the government buildings, why not ask the landlord if they would take them on and give them this subsidy of \$3,000 or \$4,000? It's still cheaper than building a brand-new unit and putting them in there. The landlords have so many vacancies, they'd be happy to take these people in, providing that they're sure of the rent, of course.

I hear a lady saying some of these people are not completely healthy in their head because they're mentally retarded. It would be very difficult for a regular landlord to be able to look after that person, but I suppose if you gave them a supplement, it could be done.

Laughter.

Mr Barratt: I'm sorry. I must have made a joke here.

Mr Gilchrist: There's a hyena in the room.

The Chair: Let's have some order, please. Mr Barratt, you have two minutes.

Mr Barratt: Two minutes?

The Chair: Yes, sir.

Mr Barratt: As I said about the social housing, there are a lot of people in there that are not in need. It's greed. There's a big difference between need and greed. There are many cases — I may be repeating myself here, but 1,000 square feet for one person is ridiculous. I think if you went through your books with this social housing and checked how many people are in these units, you might be able to save yourselves some money.

The Chair: Mr Barratt, thank you very much for coming and making your comments to the committee this morning.

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WINDSOR ESSEX LOW INCOME FAMILIES TOGETHER

The Chair: The next presenters represent Windsor Essex Low Income Families Together: Christine Wilson and Mary Seaton.

Ms Christine Wilson: Good morning. I think first I'm going to request that the Chair ask this landlord for an apology for calling women in this room necessarily, and all female tenants in this province, bitches. You may have called us to order, but we are very offended. I think that is part of your duty, and I really am serious. I would like that apology, or at least your request for that apology.

The Chair: Ma'am, I don't think he's here. He has gone.

Ms Wilson: That's unfortunate. He's probably lucky he left.

I have a couple of comments I'd like to make regarding his presentation in the first place too. One, I feel it's very unfortunate that a lot of his tenants happen to have pet tigers. If this committee wants to believe that, go right ahead. I have questions about his request for a \$500 deposit that should be paid by the tenants across the province, as he stated, so that if a landlord doesn't do repairs, the government can take this \$500 that the tenant paid and repair his place. I think that's ludicrous. I hope you don't take any suggestion like that seriously at all. That's quite ridiculous.

Now to get past his little bit, because that really did ruffle my feathers, WELIFT is our group. We're the Windsor Essex Low Income Families Together. We formed three years ago. Our group formed in response to government cuts. We knew that this government of Ontario was going to attack the most vulnerable in this province. We had no doubt about it, and we have seen it in every area. We have seen it in health, education and welfare. Even this new bill is another attack on the poor.

We're not here just to yell at you but hopefully to educate you about who these people are who are in our group and who tenants really are, the low-income tenants. Low-income tenants are seniors, the disabled, the working poor, social service recipients, students and people who are among the artistic community. These are people who generally do not have a lot of money and cannot afford rent increases that are outrageous. In our group right now, we currently have 105 families. There are a lot of children in our group who are not counted in that 105 number; that's the adults only counted. A lot of these children will suffer if their parents have to move into smaller accommodations.

Mary Seaton, who is our membership coordinator, is going to talk more on some of the fine points. My job is really to stress to you who low-income tenants are and why you have to be very cautious when you make any changes that can affect us.

Last year a member of this committee — I believe it's all the same members; I'm not sure — asked me, "Don't landlords have a right to make money?" I thought that was really a strange question. Landlords do have a right to profit, of course, but I think any landlord with any intelligence, when they invest in the rental market, has to realize that they are going to make their money over a long term. Any landlord who expects to see a profit overnight is being ridiculous in the first place, and that shouldn't be a burden placed on tenants. When you buy into that kind of business, you know that it's going to take time before you see your money back.

If we look at the duplex situation, a lot of tenants are essentially paying the mortgage for the landlord. Is it really fair for those landlords then to expect the tenant to pay for all their other living costs? I don't think so.

I hear repeatedly from different areas of the government that the tenant is not the taxpayer. Landlords cry about all the taxes they pay, but that tax is collected from the tenant. The tenant is actually the taxpayer, and tenants do vote and tenants do have a right to keep insisting. If I am wrong on that fact, why is there a thing called a rent rebate? I know what I'm talking about. The tenant is the taxpayer; the landlord is an agent for the government in that sense to collect the tax. So I think we should stop looking at the landlord as the poor taxpayer. That offends tenants, because it's not really true.

When we look at a lot of issues in this bill, we're looking at things that we fear for people in our group. Our group is a vulnerable group of people who don't always know how to exercise their rights. I looked at certain issues in this that I thought are generally going to confuse people greatly. It's going to upset a lot of people, and it is very pro-landlord. I think this committee really should pay heed to what we're trying to express, that it is very dangerous to give so much power to the landlords, to take so much away from the tenants. I think we deserve more respect. The fact that we are the taxpayers should give us that respect.

I'd like to introduce you now to Mary Seaton, who would like to speak on some of the finer points of this bill.

Ms Mary Seaton: Good morning. I'm going to talk about how it affects the people. The people we have mentioned — seniors, people on disability and social assistance, people with families who are earning low-income wages, students and members of the artistic community — are all in this very sensitive group, and they have one thing in common: They have a limited amount of dollars to spend, and the budget that is available to them is having more and more demands made upon it.

I sit on the Windsor-Essex County Food Safety Steering Committee, which has had a Trillium grant. It will very shortly, in early September, issue a report pointing out that any extra money that has to be spent on rent and any other facilities always comes from the food budget and that there are going to be more and more people who are going to definitely be hungry because of this, because of the demands on a very fixed income. It doesn't matter whether it is earned income or comes from the province or is a student grant; there will be hunger. It also will mean that if rents go up greatly and the availability of affordable safe housing becomes less and less through this act, there is going to be a rapid deterioration in the bottom part of the income of the community. People are going to move in together. There is going to be an increase in domestic violence. There is going to be an increase in child abuse, woman abuse and a general deterioration of health. So it is discriminatory.

The other things that really make me anxious are the proponents that — I understand from your Chairman that this is coming under the area of disinformation, but the allowing of landlords to sell tenants' property. I see this as a very real problem with elderly seniors who are confused and with people who have mental illness. They don't always tell people when they go into hospital, and some people don't have relatives. They may go away for a period and it may look to be that the apartment is abandoned, and it isn't.

I sit on a seniors' apartment non-profit, and we had a lady who was in a car accident. She didn't have any relatives. She's a single person. She was hospitalized, and until the police came and told us, nobody had any idea that she was in hospital. These kinds of things can happen, and this is where people will fall through the cracks. Some protection has to be afforded them.

I don't see landlords as that aggressive or that desperate that they are going to go off and seize people's possessions immediately an eviction order is made. Hopefully there is some civil agreement between landlord and tenant to give them a decent time frame to get out. But I do worry about the extremes of the old and the mentally ill. We have a member in our group who has a mental illness. He disappears off the face of the planet from time to time, and it takes time to find him and see that he is okay. This is one of the people who comes under this vulnerable section.

1010

The other people who are very vulnerable are children. If they're not living in safe environments and do not have access to playgrounds, they do become a problem.

Children are like all things young: They need space to run and space for exercise. If they are cooped up and are in intolerable conditions, they do become a problem, as anybody knows who's had three children in a car on a four-hour journey.

These are the kinds of problems that the act is going to make much more difficult for people who have fixed incomes. With the cutbacks that have come in rent and with the cutbacks and the wish of this government to get out of non-profit housing and Ontario Housing, the affordability of family housing for a lot of low-income families is becoming less and less. It's no longer going to be a dream that you're going to have your own place.

The other thing that is very difficult is with students. If the university or the college does not have its own properties and they all team up, because of the changes in OSAP, they are going to have less and less money disposable for their rent and there is going to be a problem there. They're already going to come out of university with a whopping great bill around their neck to pay for it, and so this is another area where people are going to have difficulties.

With evictions and the changes in the rules, unless these are very clearly stated, people are going to become extremely confused. People do not understand and people can very easily be harassed. People on the whole are very frightened of their landlords and see them as a threat. It doesn't matter if your landlord is very well intentioned, because it's a threat to your security, especially if you're not quite sure of what he's talking about. A lot of people, with this new eviction status, are going to see, if the landlord gives them a notice and they can come in and have it viewed, that they have to get out, and they may well abandon their buildings without going through the formal usage.

So a lot of education has to be done in this field to explain what this bill actually means, because as it is coming down, it is reading very terrifying and very anti-tenant.

I don't think I have any more issues that I can address at the moment.

The Chair: Does that conclude your remarks?

Ms Seaton: Yes.

The Chair: We have time for some questions, if you prefer to entertain questions.

Mrs Munro: Thank you very much. I wanted to directly comment on a number of issues that you've raised. One of the ones that Ms Wilson referred to was the issue of the tenant as a taxpayer, and certainly I'm very much aware of that. I wondered whether or not you would favour the direction that we've taken in terms of the direct flow of that tax bill so that tenants do know and see this; it's something that isn't a hidden issue.

Ms Wilson: I think tenants need to be informed more that they are the taxpayer. It has to be accepted more by government as well, because very often we've heard repeatedly about the poor landlord as the taxpayer, and this has been the myth that's been perpetuated for a long time.

Mrs Munro: That's why I really wanted to address that issue, because of course it is the intent then that this

would be very clear for the tenant, that there would be that flow-through.

Ms Wilson: I think, though, that would fit in with what Mary is saying. If the government is insistent on the package it's trying to put out, although we're still going to have problems with a lot of this, there has to be an education package that the government is willing to pay for. Every landlord in this province would have to have, in layman's terms, an easily read document as well, which is something the government finds hard to produce, and each and every portion of this would then have to be interpreted so that it could be understood by the tenants and by the landlords. That's a problem we often face in a lot of areas.

Mrs Munro: I certainly appreciate that as a recommendation. Absolutely.

The other thing is, you raised the issue of abandonment. I just wondered, because of course the point of view of the government is how to strike a balance: Where does the responsibility of one begin and the other end? I wondered if you had a suggestion in terms of what you see as a time period that's appropriate. Any comments there?

Ms Seaton: With abandonment, I think if the rent is paid, and this often happens, then the landlord has to get together with either a lawyer or somebody who acts for the resident. I know when we have trouble in our seniors' building, there is a little unit that goes into action which acts as the property manager, an advocate for the resident, and also a member of the resident's family if they have one, and they come to some conclusion. I think something like that should go into force and there should be — I'm not saying a huge time frame. I'm looking at, say, 90 days or something like that.

Mrs Munro: With the rent paid.

Ms Seaton: Yes.

Ms Wilson: Could I add something to that briefly? Recently in Windsor, a family was really distressed by our Windsor Housing Authority because their parent had died and the Windsor Housing Authority went in and changed the locks. They could not even get their father's clothing to bury him in. They had to borrow articles of clothing to bury the poor man in. I think there has to be something here. If even an agency like Windsor Housing Authority feels it has the right to lock up that property from the relatives, there's something big missing here. I don't think any of us would think it's appropriate to bury our father in borrowed clothing.

We have some big problems already. I think mediators have to be assigned, and that's where a lot of us keep asking for advocates in a lot of these things. We need advocate services, and the government should be funding advocate services that can look at problems like that and address them. That was a very serious and very heart-breaking situation for that family.

The Chair: I'm sorry. If we're going to allow the other side to ask questions, we have to move on. Mr Duncan.

Mr Marcel Beaubien (Lambton): On a point of privilege, Mr Chair: Very briefly, I find the comment made by the previous presenter inappropriate and offensive. I want that on the record.

Ms Wilson: Thank you.

Mr Duncan: Ditto that for the official opposition.

Christine and Mary, thank you for presenting today. You've made a compelling case about the effect that Bill 96 will have on low-income people and people who are financially distressed and otherwise distressed.

I just wanted to point out a couple of things to you that were contained in the government's own study, called the Todd report. It was commissioned by the government in 1996, and Todd concluded that after rent control is gone, the owners of low- and mid-priced buildings will attempt to raise rents to market levels as quickly as possible. Full decontrol will result in pressure to increase rents for most buildings with rents below \$900 a month. Those are the buildings where the people that you deal with and represent will be most affected. Chronically depressed rent units, ie, those buildings where the poor and those who have less resources live, can be expected to undergo the largest increases in rent. Large rent increases will produce a high turnover of tenants. I come back to the presentation by the Windsor chapter of the Canadian Mental Health Association where they talked about the stress on those individuals.

I wanted to just focus a very short answer from you. In your view —

The Chair: We're almost out of time. Mr Wood won't have a chance.

Mr Duncan: — this will decrease available housing for poor people. Is that a proper paraphrasing of what you've argued today?

Ms Wilson: Yes.

The Chair: Mr Wood, you've got hardly any time at all.

Mr Len Wood: Just a comment then. I find very distressful and shocking the example you used — and it could be anyone's relative — that a landlord would even think of locking up the place and not allowing people to get the proper clothing. I'm sure there are all kinds of examples of this happening right across the province. You gave one from Windsor. Is this legislation going to improve that situation?

Ms Wilson: No, we don't believe so. We really believe there has to be an advocacy service.

The Chair: Thank you, Ms Wilson and Ms Seaton. Unfortunately, we've run out of time, but thank you for coming.

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HIATUS HOUSE

The Chair: The next presenter is Donna Miller of Hiatus House. Good morning, Ms Miller.

Ms Donna Miller: Good morning. I appreciate the opportunity to appear before you today. I'm the executive director of Hiatus House, which is a multiservice agency related to issues of domestic violence. I'm not going to spend a great deal of time explaining our organization to you except to say that we are a 42-bed crisis shelter for battered women and their children. In addition to our

emergency shelter services we have a number of other program areas, which include group therapy for battered women, for male batterers, as well as for children and youth. Within our emergency shelter program we also have a specific program for child witnesses of domestic assault.

I would like to give you some basic program statistics for this last fiscal year, and then I will move on and address my remarks specifically to how we see this particular piece of legislation potentially impacting on victims of domestic violence, child victims of domestic assault specifically.

This last year we had 395 battered women admitted to Hiatus House with their 410 children. In addition to those persons, we provided crisis intervention services for another 3,164 women. Within our city group program we had 242 women. We had 88 women access our group therapy program in the Essex county area, outside the city of Windsor, and 193 men who had been violent in their intimate relationships in therapy with us. In addition to these direct service programs, we of course are involved in public education services, police education and training and so on, in a variety of different areas.

Wife assault or spouse assault, or whatever term any of us choose to use, is a pervasive problem within our society. Statistics Canada reported back in 1993 that one in four married women were assaulted by their husbands. This figure is even greater if we consider only those women who have been "married" or lived within the context of a common-law relationship. Within this study the most prevalent forms of marital violence were pushing, grabbing and shoving, followed by threats, followed by slapping, throwing objects, kicking, biting, hitting and hitting with fists. A significant number of women also reported being beaten up, sexually assaulted — and here I am not talking about sexual assault by stranger; I am talking about sexual assault within the context of a sexually intimate relationship — choked, hit with something, having a gun or knife used against them.

Our concerns with regard to the new Tenant Protection Act: Women who decide to leave abusive relationships are essentially homeless, and without shelters for battered women and their children, such as prior to Hiatus House starting in 1976 — at that point in time I was working in the area of child welfare; I have been with Hiatus House since 1976 — there were no places for victims of domestic violence to safely go to with their children.

When we talk about safety, I want to be very clear that within the context of our organization and a building that was specifically built in 1989 for victims of domestic assault and their children, we have a security system that is incredibly sophisticated and we have bullet laminate on all of the at-floor windows within the agency. We are talking here already about a situation that is very much life and death. I want to put that in context as we talk about victims of domestic assault being essentially homeless in the first place. Therefore, they are in immediate need of affordable housing.

Consequently, we believe that the new Tenant Protection Act has a direct, negative impact on abused women and their children, who usually have low incomes and may depend on assistance. Usually, women who are not already in a low-income situation or in a very dependent situation do not present in a publicly funded agency such as Hiatus House. Therefore, if exclusive possession of the matrimonial home is not an option — and I would also like to remind this committee of other government initiatives that have already created some difficulties for this particular client population, such as within the context of Ontario legal aid. If an abused woman has to seek alternative accommodation for herself and her children, this potentially creates an additional difficulty. Unfortunately, women and their children already face discrimination in a number of situations when landlords become aware of their abusive situations, particularly when they are living temporarily in a shelter, attempting to relocate either as a single person or as a single parent.

Dianne Cunningham, minister responsible for women's issues, announced on July 2 the Ontario government's prevention of violence against women Agenda for Action plan. To quote:

"The agenda for action will be coordinated by the Ontario women's directorate in partnership with eight other provincial ministries and their stakeholders. This strategy is intended to combat violence and provide support to women and children who are in crisis as a result of domestic assault, domestic violence.

"'The government's message is clear,' said Cunningham. 'Domestic and sexual violence is a crime and abusers and offenders will be held accountable. Preventing violence against women is everyone's responsibility, and with decisive action, this government is taking its responsibility seriously.'"

I know you're already aware of the \$5.5 million and where that money is being assigned, in terms of being spent on prevention and education, improving the justice system, and certainly we're in favour of the justice system being improved. But I think we need to look at the context this particular piece of legislation is being brought forward in.

I would say the implementation of the new Tenant Protection Act, coupled with what we have experienced thus far in a number of ways — this government's lack of commitment to social housing projects as well as the reduction in welfare assistance and Ontario legal aid — is inconsistent with the purpose the Ontario government's prevention of violence against women plan states within the context of the Agenda for Action. In fact, it would be fairly easy to anticipate that women, who have already limited choices — rather than face the impossibility of unaffordable housing, discrimination because of her abusive situation, and then the obstacles of receiving limited financial assistance, many women will choose to stay in violent homes.

Whether you and I might have an understanding of that — I believe we probably have a different kind of understanding of that than many people. Be that as it may,

leaving a violent home is already exceedingly difficult. I have oft-times said that I hope I live long enough to hear the question reversed from, "Why would a woman stay with a man who is violent with her?" to "How is it that she has sufficient courage to pick up and leave a situation?" particularly in those instances where she has children.

Now we will have women potentially also, as prior presenters have already commented on, using money allocated for food, utilities and other necessary items to pay the rent. Under the new act, the landlord may charge, as I understand it, any price for the unit each time a tenant is moving into a vacant unit. This is particularly problematic in cases of domestic violence, since it usually takes several separations and moves from the abusive partner by the woman before deciding to terminate, in a final way, the relationship. Therefore, each time an abused woman leaves her abusive partner, she will be faced potentially with a higher-priced rental unit.

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Further, I believe the financial incentive will potentially motivate landlords to evict tenants in order to increase the rent for that particular unit. This will be a severe roadblock to abused women and their children who are trying to re-establish on their own. I think there are some very good reasons to seriously consider maintaining some form of rent control.

New units being exempt forever: According to the act, units first rented after the legislation comes into force will be exempt forever from rent control. Therefore, a landlord wanting to fill a new building might rent all the units quite reasonably in the first year, then decide to raise the rents significantly the following year. In such a situation, abused women may need, again, to use other sources of allocated dollars to pay the rent. The abused woman may also decide to return to the abusive relationship because, economically, it is simply not feasible to pay rent, utilities and to provide food for herself and children as compared to standing in lines at food banks.

A brief comment about tenants' property, and again I realize that this has already been commented on by the prior presenters: Section 40 of Bill 96 states that the landlord may sell, keep or otherwise dispose of property if the tenant has vacated the unit, but does not, in our opinion, provide an adequate procedure for requiring the landlord to make sure the tenant has vacated the premises. This implies a situation where the landlord can serve a tenant with a notice of termination and the tenant may be an abused woman who has decided to stay away until various legal remedies are in order for her. She may be staying at our shelter or any other shelter, potentially, within the province of Ontario, or she may have been in a position of being able to make private arrangements with family and/or friends. In such cases, the landlord may decide that the woman has vacated the unit and take control of her property.

Bill 96, we believe, should include a comprehensive system governing the manner in which a landlord may deal with property of a tenant. There must be a remedy

provided in the bill for tenants or estates who wish to challenge such basic matters as whether the property or the premises has been abandoned. A landlord should be obligated to account for the manner in which the property is dealt with, and there should be a requirement to hold the property for a reasonable period of time.

The above are just a few of the many concerns about the impact of the new Tenant Protection Act that we believe exist in relationship specifically to abused women. This act, as I understand it — I'm always pleased to be enlightened, but as I understand it, this act really comes across to those of us in this area as a piece of legislation that is much more protective of landlords than it is of tenants.

We have some very good relationships with landlords within this community, as have had some of the women and children and families we have worked with. But I also want to be very clear that we have also had situations where we have been contacted by women in this community directly who have not only experienced significant difficulties with landlords but have also experienced what, in their perception, is indeed abusive behaviour directed towards them and/or their children or youth, by virtue simply of the imbalance in power and control in terms of being a tenant vis-à-vis being a landlord. I want to put out both of those situations, because we certainly have had experiences of both and I think it's important for the committee to hear that.

The new Tenant Protection Act, we believe, gives the landlord more power and more control for those people who are already in an extremely vulnerable position such as abused women and their children. We believe the Tenant Protection Act should be thoroughly reviewed in relation to the negative consequences it potentially will have on those with limited income, who are mostly women and children and youth within the province of Ontario.

Thank you for the opportunity to appear before you. We will be sending you a copy of our printed material. I apologize that I was not able to have that with me today in full form, but we will be sending it in to you.

The Vice-Chair (Mrs Julia Munro): Thank you very much, Ms Miller. We really only have time for one caucus to ask a question. We'll start this round with Mr Duncan.

Mr Duncan: Thank you, Donna, for your presentation. As always, it was very thoughtful.

I wanted to preface the question by a brief comment. Ms Miller is one of the pioneers in our province in assisting battered women and providing shelter. I should also point out that she's the chair of the board of governors of our university and has done an admirable job in very difficult circumstances this year of keeping things on track and making sure the university continues to offer this community the kind of quality education it has over the years.

My question, Donna, just to focus on the supply of affordable housing, is that the government has put the case that this legislation will (a) give greater protection to tenants, which we dispute, and (b) will increase the supply of housing. It's our view that the supply of affordable

rental units for people who are vulnerable, whether they be battered women, people on social services or others — it's our view that this bill will not affect in a positive manner the supply of affordable housing and in fact will probably decrease the supply, and, when put in the context of other initiatives by the government, will leave those people who are most in need of affordable accommodation with fewer options. Would you share that view?

Ms Miller: I certainly have a concern about that. I can't say I believe it in a definitive way, but I believe there is good cause to have concerns about that. One of the reasons we're as concerned about this bill as we are, within the context of Hiatus House, is that we are under constant pressure through this government to reduce the length of stay of battered women and their children within shelters. We know we now have moved beyond the original McGuire report, which talked about 48 hours of length of stay — I recognize that we have moved beyond that, for which, obviously, I commend the current government — but I'm concerned that there are some realities around length of stays in shelters, realities about the difficulties battered women and their children already have in relocating, and I have nothing before me that says this bill will increase long-term, affordable, appropriate standards of housing within communities. That's my best comment that I can give to that remark.

Thank you very much for the opportunity to appear before you. I wish you well in your deliberations and I trust that we'll see at least some changes at the end of the day in terms of the legislation you're looking at.

The Chair: Thank you very kindly for your comments.

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LEGAL ASSISTANCE OF WINDSOR

The Chair: The next presenter is Legal Assistance of Windsor, Carol McDermott.

Ms Carol McDermott: Good morning. Thank you for agreeing to allow me to present.

Legal Assistance of Windsor is a poverty law clinic. I specialize in landlord and tenant matters and that's 95% of my practice. I know there are some good landlords out there, there must be, but we don't see them. We see the landlords who are really problems. We see tenants who are in real despair. The people who qualify for our services obviously are in financial need, so they need to have premises that are affordable. There's a very low vacancy rate in Windsor, but for affordable accommodation, it's much lower.

I wish members of this committee could spend a day in my office. It would give you a real eye-opener of what the situation is like for tenants, particularly for tenants on low income.

I have prepared a written brief and would have actually had a more polished oral presentation but I've been tied up the last couple of days dealing with an emergency. There's an 80-bed care home which, unfortunately for the residents, is located right across from the location of the new permanent casino.

What's going to happen with that building isn't quite public yet, although there was a newspaper article that indicated it would be turned into a hotel for casino visitors. Until recently, it was occupied by about 80 vulnerable people who have suffered from some form of social or psychiatric or other problems that have made them need some kind of care as part of their lodging. As of today, I understand there is one person there. The owner was hoping to have it vacant by Sunday.

The residents, I understand, were given about three weeks' notice. They were given a letter some time in July that they were to be out by August 15, although Monday was only August 11, as I understand, and the property was to be empty by then. I was over yesterday and they were taking out the light fixtures. All the mattresses are in dumpsters in the backyard or in the parking lot.

One of the pieces of legislation that Bill 96 would repeal is the Rental Housing Protection Act. The Rental Housing Protection Act, as I know you all are aware, is designed to give municipalities the authority and the responsibility to make sure that when there is going to be a major loss of rental accommodation, the municipality will at least have the opportunity to review that and to make decisions about that.

I'm not suggesting that the municipality would ever say to a developer, "No, you cannot develop your land in some place that is more beneficial to you; you must continue to rent to vulnerable people," but I think the municipality could say: "We'll look and see what else is available and we'll make sure we have the time to put other alternatives in place. We'll make sure you wind up your operation in a manner that is not too harmful for people," and that doesn't require threatening people with having the police or fire department put them on the streets or considering Mental Health Act commissions to expedite the landlord's development.

The Rental Housing Protection Act, if enforced, could provide municipalities with that kind of authority. That act will be gone with Bill 96.

I know there are all kinds of other significant procedural problems that will come about because of Bill 96. LCHIC, the Legal Clinics Housing Issues Committee has provided you with a brief and a presentation that deals with many of those specifics and I don't want to repeat that.

I also don't want to repeat the things we said last summer about how badly people will be affected by vacancy decontrol. I know a lot of us have said that very often, so I won't repeat that. What I'll say is, if you're going to go ahead with vacancy decontrol, please think of some way to deal with some of the results of that.

One of the main things that's going to happen is, as I know you people are saying, landlords are going to harass tenants into leaving, I am sure that's going to happen. I think once units are vacant, then landlords are going to be reluctant to rent until they've tested out how much they can get for the property.

We already too frequently have tenants come to us and say: "All my stuff's in my truck. I was supposed to move

into this new place today. I gave the landlord \$500 two weeks ago and I was supposed to move in today, but I didn't have a written lease and I just arrived there this morning and the landlord said: 'I gave it to somebody else. Here's your \$500 back.'"

As you know, that's a breach of contract, but what good does it do if we can say, "Yeah, we'll take him to Small Claims Court," when you're sitting there with all your property in a truck and with no place to move into, and there are very, very few apartments you can rent in Windsor for that kind of money. What are those people to do? At least under the present rent control there was not an incentive, the legal incentive to hold off and try and rent for higher prices because if the landlord was going to obey the law, which many of our landlords do, the landlord would not rent for higher than the legal maximum rent.

Under the new legislation I think landlords are going to wait until the last minute to see who will pay the most, and I fear they will rent to one party and then change their minds and rent to another. One of the ways to get around that would be to have a third party hold the deposit. This is done in some other jurisdictions such as New Zealand and some parts of Australia. The housing tribunal could hold the deposit. That introduces some formality into the system. When the parties reach an agreement that they're going to rent, and hopefully that could be on a standard form lease, the tenant could be referred to the housing tribunal to pay the deposit and then get a proper receipt. A lot of the time we have tenants who come to us and they don't have a way to prove that they paid the deposit or that there was an agreed amount to move in.

We also have problems when tenants leave apartments because landlords say, "Well, no, you didn't give me a deposit," and some of our landlords don't provide receipts. Sometimes, if it's a long-term tenancy, the tenant won't have receipts. If the deposit was held by the housing tribunal, we would save all those problems of proof. There also would be a substantial sum of money that I'm sure would be appreciated by the housing tribunal to help run some of its new programs. There would also be an orderly fashion in which the interest could be paid on the last month's deposit. We could also deal with the problem where the city refuses to provide a last month's rent deposit for people on social assistance but provides a letter of guarantee, which some landlords don't think is as good as cash. If the housing tribunal was holding that deposit, that would solve that problem.

I'd also like to see a change in legislation that would require landlords to provide receipts. A lot of our landlords don't provide receipts. Many of our tenants do not qualify for a bank account, so they pay in cash. Then we have all kinds of problems of proof. If landlords were required to provide receipts, that would solve a lot of our evidentiary issues.

Maintenance and repair is always a problem. Sometimes I go out on home visits because it's hard to comprehend what I'm being told. I go and see these places and say, "Why on earth would you agree to pay this kind of

money to live in a place like this, a place where there's no drywall on the walls or the ceiling is falling in or the toilet doesn't flush?" I say, "Why would you pay this kind of money for that place?" The tenant says: "Because I had no choice. There wasn't anything else available that I can afford so that's what I paid."

At least with the orders prohibiting rent increase, that was a really cheap, economical way to put some pressure on some landlords to make repairs. I can see no legitimate reason for repealing that part of the act.

I would certainly welcome any efforts to give building inspectors more authority and to streamline that process. I think that's wonderful. We now have a lot of difficulty getting building inspectors to attend premises because the city of Windsor has put a priority on inspecting new buildings. It's very important to keep the development going. That means it's very difficult sometimes to get a building inspector to go out to look at premises in which there is a complaint. Without more building inspectors, without a requirement for the city to enforce its property standards bylaw, there's not a lot of value in that process.

I worry about the sections dealing with tenants' property, but Donna Miller addressed that in sufficient detail so I won't focus on that and take much of my time on that.

The idea of going to an administrative tribunal I think is a neutral move. It could be positive or it could be negative. It could be cost-efficient and it could cut down on some of the backlogs in the court. However, I really worry about the qualifications of the people who are appointed to that committee. I worry about their independence and their lack of bias.

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I worry more about the procedure before that tribunal. There's a section in this proposed legislation that would allow a landlord to get a default judgement if the tenant doesn't file a written dispute within five days of being served. Right now the tenant just needs to show up. Requiring a written dispute in a short filing period would mean that many of our clients will not have any opportunity to even assert their rights. People for whom English or French is not their first language, or who are marginally literate or who don't know their legal rights or can't get legal representation within five days, will not be able, in any way, to enforce their rights.

I want to leave time for questions, so let me just add that looking at the implementation, please try and remember the family support plan, when there is a system in place that people don't think is perfect but is operating and providing some people with much-needed support. Just remember we have tenants and landlords who use this system. It's not perfect, but it's essential that it not be dismantled until something else is in its place.

If you had been outside across the street this morning, you would have heard a lot of people chanting: "We are tenants. We have rights." Not everybody out there was a tenant. There are tenant households in Ontario; you would be much more capable than I of translating that into the number of voting members of the province. In addition to those tenant households, though, there are a lot of people

who are fortunate enough to own our own homes, but many of us have friends, relatives, colleagues and people that we care about who are tenants.

Many of us also do not want to live in a province where the rich get richer and the poor get poorer. We really want tenants to have some rights. This legislation needs to be drastically amended before it takes away all those rights that tenants have now. Thank you for allowing me to address you. I'd be happy to entertain questions.

Mr Len Wood: Thank you very much for an excellent presentation. I agree with you 100%: Why bring in legislation if it's going to be the same as the family support plan where a year or more has gone by and it's still not working, not delivering? If we're going to have changes to the rent control and if it's going to be the same thing happening all over again, it's a real hardship for the people who are renting.

Back in January, when the mega-week or the mega-dumping started, I understand that in social services, and maybe some other services, close to \$600 million is going to be forced on to municipalities, and, in turn property owners, landlords, are going to have to pick that up. That's not included, property tax increases are not included in the legislation at all, so if municipalities have to raise taxes, landlords are automatically going to push the rents up. There are no controls in the legislation.

I know you're talking from a legal assistance point of view, and it's probably the same thing right across the province. Should this legislation be withdrawn or tabled or put on the back burner and say: "What we have right now is working. It's working better than the system was from 1986 to 1990. Leave the system in place until we have something that will work. This won't work"?

Ms McDermott: What we have now is legislation that gives tenants rights, that gives landlords rights. Sometimes they need to be enforced better than they are now, but we at least have legislation that gives them rights. What we would have under the Tenant Protection Act would be a massive withdrawal of those rights.

Mrs Munro: I really want to comment on the way in which you have made your presentation in terms of very specific suggestions. I particularly appreciate the comments with regard to the written and the oral issue. I think there are a number of places that comes up, and so I simply want to compliment you on the very specific nature of your recommendations, because they are certainly very helpful to the committee.

Ms McDermott: Thank you, and if I can refer you to LCHIC — it stands for Legal Clinics Housing Issues Committee — it presented a very thorough brief with very specific recommendations to deal with those very procedural issues that lawyers representing tenants become very familiar with. If I can refer you back to that brief, that brings up a lot of very specific recommendations that I think would really help in reworking the bill.

Mrs Munro: Thank you. I'm certainly familiar with it, and we have heard from legal clinics throughout the province at each day's hearings.

Mr Gilchrist: I appreciate your comments. Just a couple of things that come to mind: I don't want to comment about that particular legal case you mentioned, that would be inappropriate, but you know, the RHPA is in force today, and I'm always concerned when I hear people saying we shouldn't be changing and yet there are these dramatic problems.

At the same time, you talk about visiting properties where the standards just aren't up, and yet nobody ever talks about the fact that municipalities have the power to enforce those standards and that this act makes it very clear that property standards must be maintained. Health and safety must be maintained. We're dramatically increasing the power given to property standards officers, we're streamlining the process, we're taking away one of the time-wasting procedures that landlords have used, and I don't see any recognition of that. But even today, as I say, municipalities have the power to fix those things, and particularly with legal counsel, I'm always concerned when I hear that these things are perpetuated and municipalities don't do anything to rectify it. Perhaps that may be where some of your effort might be better directed.

Ms McDermott: Yes, I agree. I think it's wonderful to give the municipalities more power, but if they don't have the money to hire the building inspectors to enforce their bylaws, it doesn't really help.

Mr Gilchrist: They've got to have the courage to charge the right level of taxes.

Mr Pat Hoy (Essex-Kent): Yes, municipalities will be challenged to charge the right amount of taxes, and most municipalities in Ontario are now saying they will go up.

You raised an interesting point through your brief about landlords testing the market and testing the waters, and we know that when a unit becomes vacant under Bill 96, the rents will go up. But your scenario where the landlord may be waiting for the highest bidder to come and take over a unit is interesting to me, and not something that I think any of us want to encourage. You raise an interesting point where people think they have possession of a unit and really do not, and that is a new point to the vacancy and the allowance to raise rents, that the landlord may just wait for the highest bidder.

Ms McDermott: Yes, and what are the tenants supposed to do? They're desperate. They're coming to the end of the month. They've signed an agreement to terminate. They're going to leave or they've given notice they're going to leave, and they have no place to go. Particularly if they're on social assistance, landlords a lot of the time will just say, "Well, come back tomorrow," will not confirm, and they just become desperate. Where are they supposed to go?

Mr Duncan: Ms McDermott, I want to come back to this issue: You made the comment that you were neutral with respect to the administrative tribunal. You made some recommendations as to how to make that administrative tribunal work. That is distinct from a number of other legal assistance clinics we've heard from where they seemed to express fairly strong apprehension.

Ms McDermott: Yes. Can I just clarify? I didn't say I was neutral; I said that was a neutral change. I'm worried. I'm very worried.

Mr Duncan: Okay. You're worried, and so you endorse then the positions that have been put forward by other clinics with respect to the questions surrounding the administrative tribunal?

Ms McDermott: Yes. I think the change could be made and it could be made positively, but only with a great deal more control that's specified well in advance, and not with all these things left to be determined.

The Chair: Thank you, Ms McDermott. Our time has expired, but thank you for making your presentation.

KINGSTON STUDENT HOUSING OWNERS WORKING GROUP

The Chair: The next presentation is by Daphne Dean, who is speaking on behalf of the Kingston Student Housing Owners Working Group. Good morning.

Ms Daphne Dean: Good morning to all. Thank you very much. I appreciate this opportunity to come and speak to you this morning.

The members of my group, and I do represent a sizeable number of student landlords in Kingston, have only become aware of this legislation within the past 10 days. By the time we made contact with the committee clerk, Ottawa, our closest city for your hearings, was already overbooked, and so I guess I would start off by respectfully suggesting to you that I have this morning travelled from Kingston, which is really the other end of the province, to make our presentation and I hope that gives you some idea of how concerned we are about the changes that are proposed by Bill 96.

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I represent a group of small business people who are property owners in Kingston. We've come together to address an issue that we believe affects the ability of responsible landlords to provide quality, affordable and safe private rental accommodation to college and university students in Ontario.

Like I am, we are all full-time, hands-on landlords. We own our property, we take an active role in supervising it, maintaining it, renovating it. It's a business that really is a seven-days-a-week operation. We live and pay taxes in the communities where we have our rental properties. We specialize in student housing in much the same way that other businesses specialize in student needs, such as student travel agencies. They serve the student market in a different fashion, but they tailor-make their operation to address the needs of this group. Most of us in the group that I represent have been in it for at least 15 to 20 years.

As you can tell, I'm nervous about today's presentation because I'm not used to being in the role of advising governments about what laws you people should make, but as a small business person, I'm always concerned with being very careful and very sure that I observe the laws made by people like you and that I maintain my reputation in good standing in my community.

However, as a spokesperson for my group, I believe I am very qualified to indicate to you and address our concerns, and our concerns really revolve around what's needed to make the private sector student housing market work well, and when I say work well, I mean not only work well for the landlords but work well for the tenants, and we are extremely concerned that we have satisfied long-term tenants.

To tell you a bit about myself, I was born actually in Toronto and moved at a very early age to Kingston where I've lived for all of my life. I grew up in a poor family; we did not own property. We were renters or tenants. I worked hard. I attended Queen's University. I was able to graduate with several degrees, and the last, or the latest degree that I was able to achieve is a 1981 Queen's MBA.

As a Queen's student, I rented property. I experienced the dilemmas and the goods, the upside, the downside of the student housing situation, and I understand that several of you ladies and gentlemen may also be Queen's graduates, so I'm sure you're familiar with student housing in Kingston.

While I was still a full-time student, I bought my first rental property in the student area around the university. I worked extremely hard. I worked nights, I worked weekends, renovated the properties, worked in conjunction with or went to Queen's housing for their advice to obtain good tenants, and I spent enormous time since then and all through supervising the properties, maintaining them and always reinvesting and making improvements at all times. I visit my tenants on a regular basis and I respond to their needs. I and my group are very attuned and concerned that we listen to our tenants, and we have satisfied tenants who are long-term customers for us.

I've been doing this since 1973, and if I think of that, that's 24 years, and hopefully I feel that I have achieved some success. I now own approximately 80 units that I rent to students around the university. My role is a bit different, I do have staff working for me, but I am on the job sites five days of the week with my staff. It's very much hands on. I am there and I know exactly how things are progressing.

I visit my properties on a regular basis, at least five times a year, and I work full-time at it and I am in very direct contact with Queen's University housing and St Lawrence College also. I guess I would describe myself, as other people have described me, as a responsible, hands-on landlord. I'm sure that my student tenants may feel that at times I am too diligent and I'm too much on the job, but I know that the situation is working because my tenants are happy but also their parents relay to me that they are extremely happy with the housing that I provide.

Things have worked out well in the sense that I have a very high retention rate: 80% of my units are rented successively, year after year, by repeat tenants. I have very little loss, very little turnover. Four out of five students that I rent to renew their leases with me and they are happy to renew my leases, and hopefully the fact that I have 80% retention indicates to you that the lease arrangements that we have are agreeable to the tenants as

they are to me. Not many businesses, I believe, have this high a retention rate with customer satisfaction.

I'm telling you this because I believe that it is in the public interest to keep responsible private landlords like me and my colleagues operating in the student housing market. Right now, the private sector supplies the vast majority of student housing in Ontario. For example, in the submission that's just been passed to you, Queen's University is our case study and you will see that 70% of the full-time students at Queen's live in private sector housing, while only three out of 10 live in university residences or university-operated apartments. We assume that these statistics are comparable across the province. I guess what we're trying to say is that without the private sector the job of housing university and college students falls back on the government and public expense.

I've talked about the importance of the private sector in supplying student housing. Now I'd like to tell you about what we believe it will take to keep good landlords operating in the private student housing market and how the student tenants' interests can be best served and protected.

Students and good landlords share a common interest. We want predictable, secure, fair and a competitive market for student housing. The most important requirement for a stable, private sector student housing market is the ability to maintain 12-month leases using termination agreements. This is the situation as it exists today. Bill 96 will change this situation. The proposed legislation will take away the ability of landlords and tenants to arranged, fixed-term occupancies when the lease is signed, which is how it is done today.

The standing committee, you ladies and gentlemen, heard from Queen's University housing last week, and they gave you their explanation of why termination agreements are essential to maintaining the stock of available, affordable student housing owned by universities. The very same reasons apply to private sector student housing. Without the ability to limit occupancy to a 12-month cycle, private sector student landlords cannot ensure that housing units will be available at the times when the vast majority of students need them, namely, May 1 and September 1.

As these 12-month leases expire and are replaced by month-to-month tenancies, vacancy rates in the student housing stock will dramatically increase. In order to pay their mortgages, their taxes, their expenses, landlords will open traditional student housing units to non-students when students have given notice that they will vacate during the academic year and also for the four-month summer period. No business person can afford to have a property empty for four months of the year.

Over time, the long-standing supply of close, convenient and quality private sector rental units for college and university students will disappear. Part of the attraction of Queen's University is that there is an abundant supply of good-quality, safe, close, convenient housing for Queen's students.

We also expect, though, that there will be a serious disruption in local housing markets, and the character of our

communities as we know them today will change as students migrate into traditionally residential areas. Non-student landlords will face an unexpected and unforeseen increase in their vacancy rates as non-students move and shift into formerly student-occupied areas.

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In addition, the official plan of the city of Kingston recognizes that student housing is an important and distinctive type of housing development with different objectives than the traditional residential neighbourhoods, and I would just like to read for you, please, if I may, on the last page of our submission, under land use policies for the city of Kingston, general statement:

"Council recognizes that student housing provides living arrangements for a major segment of the city's population and constitutes a significant portion of the total housing stock."

The city's ability to control and manage this development will be compromised by the disruption to student housing caused by Bill 96.

For many reasons, including high turnover rates, the depressed rents that we experience in this market, the very low profit margin, student housing could be best described as a niche market which most professional landlords avoid. For example, members of our group own and manage a minimum of 600 student rental units in the Kingston area, and I would say that, as a conservative estimate, at least 50% of those units are below the legal maximum rent. We are in a very depressed market, and this has been the case for at least the past years, and we expect it to continue in the foreseeable future.

In order to keep good landlords in such a depressed economic market niche, as I've described it, we need to have a stable, predictable operating environment. We understand that section 37 has been added to provide tenants with enhanced security of tenure, and we support the intent of this safeguard and the anti-abuse provisions of clause 37(3)(b) which would prohibit the use of termination agreements as a condition of offering the lease.

However, we believe that clause 37(3)(a), which effectively bans the use of termination agreements, will drive responsible landlords out of the student housing market. The Ontario courts have ruled on numerous occasions that termination agreements are a legal mechanism for landlords and tenants to use.

We have suggested to ministry staff and we now suggest to you that an additional safeguard could be added to Bill 96, namely, that if the landlord exercises its right under the agreement to terminate, then the next tenant would pay the existing rent plus the legal increase once every 12 months. This would prevent landlords from using termination agreements just to arbitrarily evict a tenant in order to achieve an extraordinary financial gain in this new market-based rent system, as we realize it in Bill 96.

I can assure you, though, that those of us in the student housing market in Kingston would feel fortunate if we were able to get the maximum legal rent. We will not be anticipating any extraordinary rent gains from this legislation.

The feedback we've had from the ministry staff is that this additional safeguard would be workable and would address the risk of potential economic abuse. In other words, we're not asking for more powers or better conditions; we're asking for the same situation or the status quo as it exists with additional safeguards for tenants. If you leave clause 37(3)(a) as it's now written in Bill 96, you will punish good landlords and drive them out of the important student housing market. The result will be hardship for students and their families and pressure on governments to build more subsidized student housing.

In closing, there are three main things that I've tried to suggest to you in my presentation. The first thing is I hope that you will appreciate that we are committed to the student housing market. We are in it for the long term, and I hope you feel that our concerns are valid. The second thing is I would appreciate if you would realize that we are reasonable and we do appreciate and support what the government is trying to achieve by enhancing tenure for all tenants. We endorse your safeguards. Third, if you will, please recognize that we're not asking for new powers or special privileges. We're just asking for a continuation of the existing legal arrangement that has allowed the private sector to serve the student market well.

I'd be very happy to answer any questions, and if committee members or ministry staff would like to contact our group after today, I'd be more than happy to assist.

The Chair: Thank you, Ms Dean. I'm sure there are questions from the committee.

Mr Gilchrist: Thank you very much for your presentation. As a former resident of one of those houses many years ago, actually before rent controls came in, I can attest that there certainly was an adequate supply and, in most cases, adequate also in terms of the quality of accommodation. I trust things have stayed the same.

We have a problem with the gist of your request. Let me invite your comments on this. One of the basic premises behind this bill is security of tenure for tenants. In effect, what you'd be asking for is for us to create a second class of tenants, namely, students. That is troublesome and has been more than troublesome. Students may even be sympathetic to that, but we have looked at this long and hard, and there is a very good chance it would be subject to a charter argument, Mr Trudeau coming back to bite us again. Even if the students and the landlords agreed, it would not be a case of something that the courts would look favourably on.

The question is, given that you can currently sign a lease for exactly the time period you want, and if you want that to be eight months you can do that today, and given that you could immediately after the lease is signed issue a termination notice, as long as it's more 60 days before the end of that term, and given again, in most cases, if students are graduating they don't want to be burdened with that summer's worth of rental expense or the problem of subletting, what is there under the current act that has changed in this act that you see in any way affecting you, or do you think that there has been a problem with the mechanism of the 60-day notice for termination that we

could improve that would clarify? For example, it might be easier to say that graduating students are another reason for terminating in a case of this.

Ms Dean: I'll answer this in a couple of ways. What I would suggest to you is that student landlords don't want to lose their tenants, and from my experience, I have never had any of my tenants object or be uncomfortable with signing an agreement to terminate. It has always been a mutually agreeable situation. With the oversupply of housing and student housing in Kingston and with the fact that landlords wish to keep their student tenants, good tenants will always be requested and kept on. No one wants to get rid of their tenants.

With graduating students, I would suggest to you that good housing is so desirable that with the graduating students I have I cooperate fully. People will call me for referrals for apartments. I direct them to my graduating tenants immediately. What I'm saying is that from my experience, my graduating students have not suffered hardship. Because of the demand for my units I've been able to direct new people who wish to rent from me into sublet situations or, on some occasions, take the lease over at that point in time.

Mr Hoy: Thank you for your presentation. You've answered in part one of my questions about graduating students, so I accept that answer as given. It appears you are a quality landlord, you have quality units, and I assume you are in a good location to have the success rate you have. Flowing from the graduating students, how do you handle or how do you expect others would handle part-time students who come in for only a few months or fractions of a year? Is that a consideration you've given some thought to?

Ms Dean: I haven't experienced that group of part-time tenants but, from my knowledge and experience, there are always vacancies in the larger houses where they haven't been able to fill it with the requisite number of five or six or whatever. From what I have heard and not from direct experience, there is always accommodation available and many landlords who have not been able to rent for whatever reason will accept a tenant for two or three months. That's their choice.

Mr Hoy: You have a situation where your graduating students are actually finding persons to rent your units for you from time to time, you say.

Ms Dean: Excuse me. It's usually the other way around.

Mr Hoy: Okay, but there would be situations at other apartment units where it would be the landlord who is out beating the bushes trying to find that replacement student and it might not occur in those four months where that graduating student has left.

Ms Dean: That's why we are concerned, because in order to keep responsible student landlords in business in this very transient, fluctuating market, student landlords need the 12-month lease to guarantee them some stability of income so that they have money for repairs. They need that stability in an unstable market.

Mr Len Wood: Thank you very much for your presentation. You've brought forward a number of good suggestions and amendments. I'm hoping that the government members are paying attention and taking notes and then we'll see when third reading comes forward the changes that you're suggesting have to be made for the student landlords and the students to be accommodated. I'm personally aware of a situation in Ottawa right now where five students thought they were going to be able to renew their lease, and they're into problems. The existing legislation is going to protect them from exorbitant increases in rent, but with this legislation, if it's passed in September, that's gone, so they'll be out on the street looking for a place.

That's the only comment that I would make. You're saying the existing legislation is working fairly well and you need some amendments to this, because as drafted it's of no value.

The Chair: Thank you, for coming such a long distance.

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WINDSOR WOMEN WORKING WITH IMMIGRANT WOMEN

The Chair: The next presenter is Sungee John of the Windsor Women Working with Immigrant Women. Good morning, Ms John.

Ms Sungee John: Good morning. Thank you for the opportunity to present our concerns to this committee. Windsor Women Working with Immigrant Women welcomes this opportunity to make its presentation to the standing committee on general government regarding Bill 96. Throughout this paper, this organization will be referred to either as WWWIW or the Immigrant Women's Centre.

The Windsor Women Working with Immigrant Women came together in 1981. The focus of WWWIW was towards immigrant and visible minority women in Windsor and the surrounding communities. WWWIW provides the community with services such as English-language instruction, in-depth counselling, citizenship preparation, life-skills classes, support groups, information and referrals, as well as operating generally as a drop-in centre. WWWIW also advocates on behalf of isolated women who have a limited ability to communicate in the language of their adopted country.

In the following pages, WWWIW will briefly outline its concerns over the bill and the obstacles it presents to women and men we work with a daily basis. WWWIW will use its allotted time to focus on the sections in Bill 96 that will have a dire impact on many immigrants and the majority of refugees in Ontario.

In regard to rent increases, Bill 96 will effectively repeal the Rent Control Act as we know it. While rent control will continue for tenants currently renting, it will not be permanent. Once a tenant moves, the landlord could quite conceivably raise the rent to the amount he or she

desires. This will be made more tempting in communities where the vacancy rate is low, communities such as Windsor.

Marginalized groups such as immigrants and refugees would most likely enter the situation as new tenants, and their ability to pay the rent would often be limited by their circumstances. Many immigrants and most refugees will encounter difficulties finding decent and affordable housing.

Another issue we wanted to raise our concerns about is credit and reference checks. It is understandable that landlords might be wary of a tenant's ability to maintain rent payments. They might assuage these concerns by requesting credit and reference checks, through which they would be given an adequate history of an individual's previous reliability as a tenant.

But what about circumstances where prospective tenants are unable to provide a credit history or references? Many first-time renters fall under this category. Immigrants and refugees would have great difficulty obtaining references, references from other countries where contacts might be impossible to reach. As newcomers to Canada, they would not have readily available any Canadian references.

We urge the standing committee to give strong consideration to the inclusion of some sort of qualifier in Bill 96 that would make allowances for prospective tenants in these situations.

The next situation regards income information. Section 200 in Bill 96 would amend the Ontario Human Rights Code to allow landlords the legal right to ask for "income information" from prospective tenants. This would provide the landlord the opportunity to screen the applicants until they find their idea of a desirable tenant, an idea based solely on the tenant's income. Disadvantaged people will face further discrimination in their attempt to find affordable and livable housing.

Chief among the disadvantaged groups are people receiving social assistance. Under section 200, landlords might very well disqualify social service recipients as prospective tenants by referring to the commonly used 30% rent-to-income rule. Using the 30% rent-to-income rule, the shelter portion of the recipients' cheques will exceed 30%.

We want to take this opportunity to draw the committee's attention to three marginalized groups that will suffer the brunt of the impact from section 200.

Many refugees must turn to social assistance to survive in their adopted country. Refugees enter Canada with numerous obstacles to overcome. They will often have to learn a new language. Their finances are exhausted just to escape into this country. They have endured horrendous, traumatic conditions before arriving in Canada. They face bleak job prospects because of their lack of Canadian experience; they will have to train for new job skills because their previous professional certifications might not receive accreditation in this country, or their degrees and certificates might have been destroyed before ever arriving in Canada. They will enter this country knowing they

will not have an extended family and friends to turn to for emotional support, many having lost their families or having been forcefully separated.

Family-class immigrants will also be hard-pressed to pass requirements for income information. These newcomers have had to meet an initial financial burden upon first immigrating to Canada. The \$975 landing fee, or head tax, for every adult over 18 and the \$500 application fee for every adult over 18, \$100 if the applicant is under 18, place a tremendous stress on the finances of the family-class immigrants. It will cost a family of four — 2 adults and 2 children — over \$3,100 in fees just to immigrate to Canada, a substantial amount for any average family. Once in Canada, immigrants face many of same barriers that refugees encounter in adapting to their new country.

Another group that will face the same barriers under section 200 are the single-parent families, the majority of which are women and children. Like many Canadian families, refugees and immigrants will encounter stress and strain that will lead to family breakdowns, with the women often faced with providing a nurturing environment for their children. Once again, with no Canadian experience and often with limited English-language ability and few of the job skills demanded by Canadian employers, and scarce child care availability, they will almost certainly have to rely on social assistance. Some women face additional fears of having their immigration sponsorship withdrawn.

Of greater concern are women who seek to escape abusive relationships. Most women will endure domestic violence until their situation begins to have a direct effect on their children. In many cases, these women will be searching for affordable housing when they are at shelters or transition or interval houses. Credit and reference checks and request for income information would threaten the fragile safety of abused women and children by violating their personal privacy under the Human Rights Code. What chance will these women have of getting past the landlord's screening if section 200 passes unchanged?

In his research based on 1991 census data, Dr. Michael Ornstein, associate director of the Institute for Social Research at York University, concluded that the 30% income criteria "would rule out a disproportionate number of marginalized people as tenants, including single mothers, members of visible minorities and young people. Missing the income threshold were half of all single mothers, about two thirds of unmarried people between the ages of 20 and 24 and 60% of black single women." Dr. Ornstein goes on to say, "This radically changes the balance of powers so that people with good and affordable accommodation can choose who they want based on whatever prejudices they have." Thus, for people on social assistance, this will "dramatically cut down their access to affordable housing."

I'll be offering concluding comments. Marginalized communities will be facing further hardship if Bill 96 passes unchanged. With the proposed repeal of the Rent Control Act, 1992, they will have less protection from rent

gouging. Waiting lists for social housing can be several years in length, and with both levels of government turning away from social housing, the possibility of moving up on the list is scant.

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In the Ontario Human Rights Commission's submission, article 11, section 1 of the 1966 International Covenant on Economic, Social and Cultural Rights was quoted. It is worth repeating:

"The states parties to the present covenant recognize the right of everyone to an adequate standard of living for himself and his family" — this is 1966, so it's gender-biased — "including adequate food, clothing and housing, and to the continuous improvement of living conditions."

Thirty years later, in June 1996, the Canadian government became a signatory to the Habitat Agenda at the United Nations World Conference on Human Settlements held in Istanbul, Turkey. One of the commitments of the Habitat Agenda was the provision of adequate housing for all. The undersigned countries further committed to "improve and ensure access by those belonging to vulnerable and disadvantaged groups to shelter, finance, infrastructure, basic social services, safety nets and decision-making processes within national and international enabling environments."

We urge the standing committee on general government to amend the sections in Bill 96 that would allow for possible rent increases at the landlord's discretion, unconditional credit checks, and the amendments to the Ontario Human Rights Code that will make accessible income information. We urge the standing committee to consult with marginalized groups to understand the full impact that an unchanged Bill 96 will have on low-income and vulnerable communities.

After having read the bill, quite a lengthy bill, I would like to add another suggestion, especially for the group we advocate for. It would be to make the language more accessible, and also to provide more translations to the more significant language groups here in the province.

The Vice-Chair: Thank you very much. We have about two minutes per caucus — very quick questions — beginning with the Liberals.

Mr Hoy: Thank you for your presentation. I had the opportunity to be in a taxicab one day, and the driver started up a conversation and told me that to his chagrin — he really was quite disturbed that he would never own a home. He was in an economic situation where he knew that for the rest of his life he would always be a tenant, and therefore, he's one of those people who would be affected by this proposed bill.

Earlier this morning we heard from Legal Assistance of Windsor that many of their clients do not have bank accounts because of their income. They deal in cash and don't have cheques flowing in and out of the bank, which was something I wanted to ask about but didn't have the opportunity.

Do you find that many of the people you deal with, immigrant women and their families, do not have bank ac-

counts, or if they do, have substantial savings waiting there for them?

Ms John: Many of them don't have bank accounts and they don't have substantial savings waiting for them. Many of the women we advocate for are usually dependent upon their spouses, and their spouses themselves are not of wealthy means. Many of the women lack even the basic life skills, understanding of going to the bank. We often have to counsel the women and orient them towards banking and other financial transactions.

From that first point, automatically there's a barrier where the bank account is concerned, and certainly they don't have any significant assets even if they were able to get a bank account.

Mr Len Wood: Thank you very much for your presentation. We've heard a lot of presentations saying that Bill 96 is going to do nothing for groups of people out there, especially the groups of people you're speaking on behalf of, immigrant women, and even existing tenants now. We know that within a five-year period 70% of the tenants move, which means there'll be no more rent controls throughout the province within a five-year period, which will leave it open for landlords to increase the rent to whatever they desire. With the downloading and dumping on the municipalities and the tax break being given, another \$6 billion, we know the pressure is going to be there. With property taxes going up and everything else being dumped, rents are going to go up. How is this legislation going to help the tenants you're speaking on behalf of?

Ms John: As I stated in my presentation, it won't help the tenants. It's a barrier that many of them won't overcome. First of all, you would need a well-paying job, and as we know, with downsizing, more and more jobs are being lost or part-time jobs being created. It'll be very difficult for the women and men we advocate for to achieve levels of self-sufficiency economically. Many of them may have to spend a long time on social assistance, and if you're on social assistance your bank accounts are always being screened by your case workers, so there's very little opportunity to put together any savings to get out of the situation our clients may fall into.

Mr Gilchrist: Thank you, Ms John, for your presentation. One of the things that has become clear to us over the course of these hearings is that we need to do more public education about the intent behind section 200. Let me be as clear as I can be. The government will absolutely, positively not reduce the ability of the commission to ensure that discrimination, wherever it's discovered in this province, will be rooted out and dealt with.

The status quo today in the province is that landlords have absolutely the legal right to ask about income. There is no statute that bars it and it is not in the Human Rights Code today, so they can do it. The problem is that because it is not in the code, they can then discriminate on the basis of that knowledge. Even though previous governments have put in a restriction that says, if I were a landlord, I can't discriminate against you when I find out you're on government assistance, they can accomplish the

same thing by finding out how much money you make and then figuring out: "That's exactly equal to what government assistance is. Therefore, I'm not discriminating on the basis of the source of income; I'm discriminating because that person doesn't make enough money."

We are closing that loophole. This government is saying it should be added as another protection for tenants. It really is quite incredible to us that the opposition parties have been spinning this as a loss of rights. The landlord can do it today. When this is passed, it will constrain him. He can ask the question and he can use that constructively to offer you that rent if you have no credit history. As you pointed out, particularly in the case of abused women leaving a relationship, they have no credit history and they may have no tenancy history, but because they have a job and can talk about income, that weapon should be in their arsenal. They should have the ability to communicate that to the landlord. They would have that woman denied that right. We've said the landlord has the right to ask the question, but he absolutely cannot discriminate. That protection will be there in spades.

Mr Duncan: On a point of order, Mr Chair: I want to point out that the opposition party has merely been quoting the chairperson of the Ontario Human Rights Commission and a number of other delegations with expertise in these matters who have appeared before us. We have spun nothing. We have simply reiterated the position taken by Keith Norton, a former Conservative cabinet minister, your appointment. We agree with Mr Norton.

The Chair: Thank you. That is not a point of order, Mr Duncan.

Mr Wayne Wettlaufer (Kitchener): Ms John, I come from an area where most of the landlords are immigrants. They came here subsequent to the war and through the 1950s and 1960s.

Ms John: The Second World War?

Mr Wettlaufer: Yes. These people were the immigrant tenants of the 1940s and 1950s and they became the landlords. The immigrant tenant of today is the immigrant landlord of tomorrow.

We have a 1.8% vacancy rate in Kitchener. In spite of this, these landlords tell me they are not able to charge the legal maximum rent, that the actual market rent is substantially below the legal maximum rent. If that's the case, why is there so much fear that there's going to be a dramatic rent increase under the new legislation?

Ms John: I'm not familiar with the landlord situation in the Kitchener-Waterloo area but I am familiar with the situation that tenants face here. Landlords are not losing money from the rent they charge their tenants. Furthermore, in the example you give about the post-Second World War immigrants, the situation after the Second World War was significantly different from what immigrants and refugees go through now. Also, in the postwar years there was an economic boom, but we are still coming out of a recession and the economic picture is different for immigrants. It's very unlikely that many of the immigrants now will be landlords of the future.

Mr Wettlaufer: The immigrants who came here after the war would argue with you about that.

Ms John: I'll sit down and debate that with them.

The Chair: Ms John, our time has expired. You should run for politics. You put these people in line. Well done. Thank you.

1140

ANNE LEBEZNICK

The Chair: Our final presenter this morning is Anne Lebeznick. Good morning to you.

Ms Anne Lebeznick: I'd like to thank you all for the opportunity to speak to the committee. I didn't prepare a formal oral presentation but, rather, concentrated on a written submission. All the details and history we've been going through are in my written submission.

I wanted to talk to you about the importance of the RHPA and how it has affected me and my family since 1993. Before I start that, I'll just tell you a little bit about myself. I'm 36, have been married for 18 years. I've been a tenant for 20 years, so I'm pretty familiar with a lot of the landlord-tenant relations. I've also had the opportunity to manage apartment buildings, four complexes and an office building for almost five years, so I've had a taste of both sides of the table, so to say.

My parents came to me in 1993 when their landlord approached them with a couple of problems. In 1985 my dad had a massive heart attack, and because of that he couldn't return to his job of 26 years, so they had to downsize. They bought a mobile home in a mobile home park near Point Pelee. They've been there about 11 years now. This provided affordability. Previous to that they had always been homeowners. They've owned farms, suburban homes, rural homes with large property, but since his heart attack they just had to downsize for affordability and things like that.

His brothers and sisters bought Sturgeon Woods trailer park and offered him a mobile home for sale there that would be perfect for him. We were told at that time that the municipality allowed permanent, year-round residential in that area. We checked into that, just to make sure before they moved. Sure enough, Mr Lynn Foster, the clerk at Mersea township, said 20% of the park was allotted for permanent residential residents who owned mobile homes, not trailers or anything like that.

They moved in there in 1986. His brothers and sisters sold the park in 1990, so they've got new landlords. In 1991 the landlord was making improvements, looking for ways to create more revenue for his new business and so on. He built a marina, made improvements in the park. He then served my parents a letter — actually, not just my parents; there were 16 mobile homes down this one section in the 20% allotted. All 16 of those homes received letters of intent to convert the park to strictly seasonal. The landlord wanted to get out of the landlord business and wanted all the mobile homes removed from the park. That's where I came in.

I got in touch with Mr Steve Gaunt at the RHPA. He told me that there was legislation in the works then, called Bill 21, that was to include the mobile homes under some protection. They are homeowners and they're also tenants, and there has to be protection for their investment. They are their homes. They can't just go to another apartment for a certain amount of time.

It came to be that my parents had looked, had called all the mobile home parks in Essex county, Kent county. There are no vacant lots, no place they could bring their home. The home had been made immobile years before they had even bought it. There was a nice addition put on it and all the anchors that made it mobile were removed. They got estimates from people who would be required to dismantle the home and move it etc, and in 1994 that cost approximately \$8,000. Since my parents are both on disability pensions — most of the tenants in that park are pensioners and seniors — they just couldn't come up with the funds needed, not only for the expenses of moving but all the other expenses incurred in doing things like that.

We applied to the RHPA for some kind of intervention. There's got to be some kind of protection for the value of their home. Prior to the new landlord coming in, they had their home listed for sale as \$48,000, and now they have no hope of getting anywhere close to that if the landlord wants to make it a seasonal facility.

The RHPA informed the landlord that he would have to get municipal approval if he wanted to go through with this. Mersea township was all uninformed about any of the activities they would have to do to go through with this application under the RHPA. It was complicated further because the park was already a commercial place. It was a recreational, commercial facility and only a portion of the park was designated permanent residential. He's not, in essence, converting the whole park; he just wants that 20% back so he can close the park and go to Florida or do whatever he wants to do. As a landlord in a seasonal facility, in a campground, I can understand that a landlord would want to just close his doors, take off for a couple of months in the off season. However, he has all these vulnerable people who are left with no value in their home, who can't move it anywhere even if they could get a loan. You can't get a loan when you own a mobile home. It's not collateral; it's considered a chattel.

A lot of these tenants are really stuck right now, which is why I wanted to come today to plead with the committee that when you revamp and clarify everything going on in Bill 96, please keep sections of the RHPA and Bill 21 intact that would ensure some kind of security for the tenants' homes. Like I said, they're going to end up being homeless.

In fact, when we were going through rent control hearings with this landlord, it came out: "We can make an agreement. We'll use the mediation service." That was recommended to us by a rent officer. We took advantage of mediation service, as our relations had pretty well deteriorated since this letter of intent to convert. It came out during that that the landlord would be willing to leave the mobile homes on the site, provided we would vacate.

That way, we would both have an edge of security there: My parents wouldn't have to dismantle their home, with the expense of moving it, and he could still close the park.

Then came the announcements of the repeal of the RHPA. That really threw a wrench into all our negotiations. We were counting on the public meeting that's required under the RHPA and we were really depending on the municipality and public support for the seniors to either stop the conversion or, if it was allowed, to at least award some kind of compensation or costs for their house, to have them taken care of or at least some help in relocating their home.

With the repeal of the RHPA announcements the landlord and their lawyers knew that they could just stall for time, which is exactly what they've done. They've stalled. With the rent control hearings, it has lasted — like I said, we've been fighting this since 1994 and it's now 1997. We just signed an agreement on March 7, 1996, and we more or less just had to give up any hope of having any protection under the landlord and tenant, rent control, RHPA, all of it. Now he's going to be a seasonal facility, a campground, and as far as I understand it, none of those qualify for any of those protections.

What it comes down to is that in this contract we signed in order to protect the value of their home, they're now homeless for two months every year. As it turns out, that effectively puts them right in the target line of the vacancy decontrol, because they're going to have to find an apartment for two months every year. They're both on pensions, like I said. They're going to have to haggle with landlords. Their funds will be very limited. If this application process I've been hearing about, where the landlord will have access to — I know about income verification, but what about rental history? With everything being amended in the Human Rights Code, if that all is allowed to be considered in an application, my parents won't even get consideration for an apartment, knowing it's only going to be for two months. He may have applications on this side of the table with working people who want a solid residence for year-round. They won't even be considered.

It's not only my parents. There really is a need for all mobile home parks to have special legislation, however you can work it that would be fair for landlords and tenants and secure some value for all their assets. All their life's work is wrapped up in this and they were supposed to retire in this trailer park, and now they're being uprooted again.

I just wanted to just come here and make you all aware of that when you're considering the legislation in Bill 96. I noticed in your New Directions paper that this part was really vague. It's all gone, other than that you're changing the protection from the unit to the sitting tenant.

The Chair: Excuse me. I just wanted to inform you that you have less than two minutes.

Ms Lebeznick: Removing the protection from the unit to the sitting tenant, what's going to be the good of having protection for the tenant if they don't have a unit to reside in? There are just too many questions left unanswered and

too many circumstances that would allow a landlord to unilaterally displace mobile home owners. There are no other facilities available for these people, and that should be really considered before anything is tabled and passed. Thank you.

The Chair: I thank you very much for coming. Unfortunately, your time has expired, but we appreciate your coming and making your comments to the members of the committee.

That concludes the presentations this morning, but I have a few comments to make before members of the committee leave. If you could look at your agenda, we have a few changes. The third presenter this afternoon, the AIDS Committee of Windsor, will now be making a presentation at 1:35. The sixth presenter, Chris O'Neil, will be making a presentation at 1:55.

That concludes the comments of the Chair. If there are none from members of the committee, we will recess until 1:35 this afternoon.

The committee recessed from 1155 to 1335.

AIDS COMMITTEE OF WINDSOR

The Chair: Ladies and gentlemen, we'll reconvene the committee. The first delegation is the AIDS Committee of Windsor, Mary Osborne, education coordinator, and there's a further presenter, Sharron Cooney. Good afternoon.

Ms Mary Osborne: Thank you very much for this opportunity to present this afternoon. We're presenting on behalf of the AIDS Committee of Windsor, its staff and clients.

The AIDS Committee of Windsor was founded in 1985 in response to a new and devastating epidemic that was increasingly affecting our community. The services we provide include support, education and advocacy. We recognize there are many facets to this legislation and that most will be addressed by other concerned citizens and organizations and certainly have been addressed today. Our focus of interest for the purpose of this submission centres around human rights issues, a concern which is all too familiar to people living with HIV or AIDS.

People living with HIV and AIDS, and I'll refer to them in the future as PHAs, have often been denied jobs, housing and medical care without any logical reason. Most PHAs are receiving disability benefits or social assistance. According to the Human Rights Commission, receipt of social assistance is the most frequently reported ground of discrimination in Ontario.

The Centre for Equality Rights in Accommodation reports that 9% of tenants who have been the victims of discrimination have been disabled. The vast majority of our clients receive disability benefits or other forms of assistance and many have faced discriminatory practices. The fact that our clients are HIV-positive could send that figure much higher, however, but because most HIV-positive individuals fear the possibility of disclosure, they don't complain about discriminatory practices. The impact of this legislation is likely to bring hardship to people who

already are living with a stigmatized and largely misunderstood illness.

HIV-infected people already face a number of disability-related expenses which could include medication at a cost of up to, and sometimes over, \$1,200 a month. Currently, many are living in units they cannot afford because it's vitally important for immune-compromised individuals to live in a healthy atmosphere. Many use food banks to maintain a reasonably healthy diet. Usually there's very little left after rent for other necessities such as food and transportation.

One of our main objections to this new legislation is the income information, and if I can add a little disclaimer here, we fully recognize that landlords have every right to do credit checks and to do background checks on people. However, if you use the rent-to-income ratio, in other words, the 30% of income as a guideline for the purpose of eliminating, we feel it's for the purpose of eliminating and screening tenants.

This portion of the change in the Tenant Protection Act appears to be an effective tool to weed out those people against whom the owner has a bias. There is adequate evidence that a majority of tenants in Ontario pay more than 30% of their income for rent and never default, which underscores our view that the income ratio is a poor mechanism for making a decision to rent a unit.

The Human Rights Commission submission, June 19, 1997, on page 4 states, "Approximately one third of Ontarians pay in excess of 30% of their household incomes in rent," myself included. The submission also states, "Overwhelmingly, these persons pay their rent in full and on time." Screening on the basis of income would give a landlord the opportunity to make a unilateral decision about the suitability of a tenant based, as I said before, on personal bias.

The Human Rights Code guarantees equality in housing for people on social assistance, single mothers, persons with disabilities and so on. Leaving income information as part of the inclusion criteria for rental properties will only guarantee one thing: that persons in the above and other categories will be effectively eliminated from most of the rental markets in Ontario. The proposed changes in the TPA are contrary to the Human Rights Code and put disadvantaged people in an unstable situation.

An example of this is a person with HIV or AIDS who's on disability and applies for an apartment. The landlord does the credit check and finds the person has good credit. The tenant's rental reference is good, despite the fact that he or she has paid more than 30% of his or her income on rent. When interviewing the prospective tenant, the landlord could request more information. Under the new changes, the landlord could find out the reason for the person's disability; in other words, this person might feel forced to reveal his status or the reason he's on disability. The landlord could apply the income ratio as a reason for disqualifying the person and not revealing the true nature of his or her bias.

Our recommendation with this is, we concur with the Human Rights Commission's suggestion that income information be struck from sections 200 and 36 of Bill 96.

Rent control disputes: According to the new guidelines, when a tenant vacates a unit, the landlord is able to charge any amount he or she deems appropriate for that unit. This means that anyone who is interested in renting from that landlord will be put in the position of bidding on the unit. This is clearly impossible for people who are receiving social assistance or disability benefits.

The repercussions of this section could put more people on the streets. The National Council of Welfare reports that Ontario already has 1.6 million people living below the poverty line and many of these people are homeless. If the changes to rent control go into effect, that shameful figure will only go up. In a country that brags about its social policies, I find this figure inexcusable. To promote a situation that will make this state of affairs worse is contrary to everything the citizens of this country want and have worked for.

Along with this obvious problem the possibility also exists that even good tenants will be subject to harassment if the landlord feels he or she could receive more money for an occupied unit. Eviction notices generally no longer need to contain details of the reason for eviction — although I stand corrected from what you said this morning — and the notice does not even need to be in writing.

A local administrative tribunal will take the place of the court system and admittedly could render satisfactory decisions, depending on the structure. However, if the tribunal consists of number crunchers, then the human element is eliminated and people will be at the mercy of unscrupulous landlords and have virtually no recourse for their disputes. Disputes which formerly were decided by the court system, while not perfect, were decided reasonably fairly in that legal principles were applied evenly.

If the landlord has a particular bias against a selected "group" of people, then this portion of the TPA gives the landlord the freedom to dissolve a tenancy without concern about repercussions.

According to HIV and AIDS Legal Clinic Ontario this means: "A landlord can go to the tribunal without the tenant present and swear that the tenant has agreed to leave. For example, for tenants with HIV or AIDS who may be too ill to be present at the tribunal or who may even be in hospital, this is a critical concern."

Our conclusion is, there have been many submissions and concerns raised by those of us who are empowered and vocal. Unfortunately, the voices of the people most affected by these sweeping changes will most likely not be heard because of fear, illness or lack of information concerning an issue that will affect their lives.

A basic right of all Canadians is to have an affordable roof over their heads. The proposed changes will alter that right to a privilege, which too few of us can sustain for very long.

The act effectively provides landlords with a licence to take an unfair advantage of people who, if given the op-

portunity, would not be in a situation of poverty or illness. I ask you to reconsider the many flaws in this legislation that would only serve as a detriment to the citizens of Ontario.

Ms Sharron Cooney: One thing I would like to add to what Mary has already said is that at the AIDS committee over a year ago we started a food bank for our clients, and the reason we started this was we found people at that time were unable to eat properly because they couldn't afford it. Most of their money was already going on rent. Over half of what they were making a month was being spent on rent.

Mr Duncan: First of all, we concur with your opinion on the question of income and we'll be bringing amendments to that effect in the legislation. Also, with the notion around vacancy decontrol, we agree with your position there as well. We believe this proposed statute will decrease the supply of affordable housing for those people who are most vulnerable, and we share your concerns along some of the administrative lines, but I do want to ask one brief question.

I don't know how much involvement your committee has with actual landlord-tenant disputes, but I don't think the government is far off the mark when it says that the current system for resolving disputes is cumbersome. In my experience with it, it's cumbersome to those people who are least able to represent themselves, so I welcome an opportunity to debate a new tribunal system.

I wonder, and perhaps it's not a fair question to ask of you, do you have any views on that? Have you had an opportunity to see these things through in terms of landlord-tenant disputes, and do you believe the current system really serves vulnerable people well?

Ms Osborne: I don't believe it serves vulnerable people well at all. I've personally not been involved in a landlord-tenant dispute — I don't know if support services has or not — only from people I've known personally. People who are HIV-positive don't generally make a big issue out of the fact that they've been discriminated against, basically because they don't want other people knowing they're HIV positive. They simply stay away from any type of publicity so they just take their lumps and go.

I would welcome something. I think someone spoke earlier about the tribunal being composed of advocates as opposed to, as I said here, number crunchers. That's my biggest fear. I think the tribunal's a good idea, and kept on a local level, it's an excellent idea, but who's going to compose that tribunal? It's really an issue. It's really important.

Ms Cooney: I'd like to add also that the times we have had people who were willing to speak up on their own behalf against landlords — most of the time they're not because they're already in there, they feel tentative because they're on disability and they feel it could be taken away from them at any time and they don't want to speak up — it seemed like the issue was resolved, but then all of a sudden they were being watched very closely as far as what they were doing was concerned. Do they have their

TV too loud at night? They were really being hounded, in effect, trying to find some way to get them out of there, because they were troublemakers.

1350

Mr Len Wood: Thank you very much for your presentation. I notice that on the bottom of the page, your recommendation, you're saying that sections 200 and 36 of Bill 96 would be in violation of the Human Rights Code, or the Human Rights Commission is suggesting that should be struck out.

I'm just curious why the government would bring in legislation that might be in violation and discriminate against certain sectors of society. Interestingly, I was doing a press clipping a while ago where the member for Windsor-Sandwich was saying, "We can't criticize what the Conservative government is bringing in, because we would've brought in a lot of the same things the Conservative government is bringing." I'm just wondering if this legislation should be scrapped and we should stick with what we have. This is a quotation and there are other Liberal members; Mike Colle is quoted in there as well, and there are the red book promises during the 1995 election campaign.

I'm going to give you an opportunity, either one of you, to comment on that. Could this be struck down by the charter? Could the whole legislation be struck down by the charter if the Human Rights Commission is saying it's in violation, those sections are in violation, if they're going to allow discrimination against a certain segment of society, the vulnerable people in society?

Ms Osborne: I certainly think it's allowing for the possibility of discrimination, and I tend to object strongly to loopholes. We see a lot of discrimination in the work we do. It just happens. I knew a young man who lost his job because he was HIV-positive. The stories go on and on. I think any legislation that is not clearly written, that is not distinct, that leaves loopholes for somebody somewhere along the line to discriminate against another person needs to be looked at very carefully and struck down, if necessary.

Mr Len Wood: Is there more time?

The Chair: Very briefly.

Mr Len Wood: Legislation to discriminate against one person is too much. You have a Conservative government bringing in legislation that could discriminate against thousands of people throughout this province. It's way too much.

Mr Gilchrist: Thank you, Mr Wood, for bringing that to our attention. I wonder if he'd consider tabling those quotes because I think that's very germane to what we're hearing here today.

But more than that, Ms Osborne, I don't mean this to sound overly harsh, but we keep hearing the same incorrect assertions group after group after group. Can I ask you the source of some of the background information on which you relied in preparing your presentation here today?

Ms Osborne: I have several of the previous submissions that were held in Toronto with me. I can't find them.

They're all lumped into a packet. One of the things we had talked about at lunchtime — may I make a comment? I know what you're going to say and I had heard you say this several times today. I find legislation is very similar to the Bible. You can hand it to 10 different people and you'll get 10 different interpretations. I think what needs to be done, if, as you're saying, this is not true, is that then it needs to be written in language that those of us, the lay-people of this world, will understand, instead of legalese. It doesn't read the way you're saying it, but if your intent is the opposite, then fine, but it needs to be rewritten, it needs to be redone.

Mr Gilchrist: We don't disagree. We're actually making strides through our Red Tape Commission to try and find better ways to express the intent behind the laws that are brought forward. But let me just come to a point. I won't dwell on section 200. You and many others keep coming up with the point that eviction notices do not need to contain details for the eviction and notice does not even need to be in writing. Again, this couldn't be clearer. Under the only heading in the bill marked "Termination of Tenancies" and then the subheading "Notice of Termination — General Provisions," it says: "If the notice is given by a landlord, it shall also set out the reasons for the termination."

What's unclear about that? How could anyone reading that come to the conclusion that you don't have to put the reasons in the notice?

It then goes on to say that it has to be signed. So clearly it has to be in writing. Would you disagree with that?

Ms Osborne: No, I don't disagree with that, and you had brought that point up this morning. I agree with what you're saying on that point.

Mr Gilchrist: So you can sense our frustration.

Ms Osborne: Part of what I got came from the HIV and AIDS Legal Clinic for Ontario. I assumed they would have some basis for that concern.

Mr Gilchrist: Just as a general point, one of the other things we've done is to make sure that all these bills are on the Internet, and every library across Ontario, at least all the urban centres, provides free access. I really wish people would avail themselves of the opportunity. Don't take our word for it. Don't take the opposition's word for it. They can read these bills themselves and form their conclusions.

I absolutely respect the motives behind your presentation, but I have to make this very clear again: We will not allow discrimination. We are adding, we believe, another restriction against discrimination by banning the misuse of income checks.

You said at the outset you think it's appropriate that landlords have the ability to do credit checks and that sort of thing. We're saying that right now there is a loophole, and I agree with you, it should not be there. Our intent is to close that loophole. If the language isn't clear enough or if we haven't done a good enough job selling that, well, I'll take that back and we'll work on that, but I want to leave you with a very clear understanding. For people suffering from AIDS or any other group in this society, we

are going to continue to be vigilant against discrimination and we believe we're adding one more restriction against any misuse of information by landlords.

The Chair: Ms Osborne, Ms Cooney, unfortunately, our time has expired and I thank you for coming to the committee this afternoon. I also thank you and the AIDS Committee of Windsor for cooperating with us with respect to the agenda. We appreciate that.

Mr Len Wood: On a point of order, Mr Chair: I understand what Mr Gilchrist is saying, but for the visually impaired people, what kind of notification is going to be sufficient? There's nothing in the legislation to cover another group that can be discriminated against.

The Chair: Mr Wood, that's not a point of order.

Mr Len Wood: I just wanted to clarify what —

The Chair: It might be appropriate in clause-by-clause, but I don't think it's appropriate now.

Mr Len Wood: It's on the record.

Mrs Munro: On a point of order, Mr Chair: Because so many groups have dealt with the issue of section 200, I wonder if we could ask the minister's office and ministry staff to get us some information about the way in which these discriminatory practices are currently being dealt with. People have brought to our attention the fear they have, based on the practice as it now stands. It seems to me it would be very beneficial for us, as a committee, to have this information. I suggest we would like to know about the current status, the number of cases, the disposition of the cases and the timeliness of these charges.

The Chair: Again that's not a point of order, it's a question and that has been made. I guess the only comment I can make, and I'm going to recognize Mr Duncan, is that we're eating into presenters' times, but I'm in the committee's hands.

Mr Duncan: I have a question to place to the ministry. It doesn't need to be answered this moment. My reading of section 200 is that it is a prescriptive clause, that it provides the opportunity for landlords to use income information as part of — in fact, the annotation describes it "Prescribing business practices." I would like, in writing, the argument against that because we have been provided, in writing, arguments from another government agency that simply do not agree with the position the government has put forward here today.

My read of section 200 is it's a prescriptive clause, and it permits, explicitly, the use of income information.

The Chair: Again, that question has been made.

CHRIS O'NEIL

The Chair: We will proceed with the next presenter, who is Chris O'Neil. Good afternoon, Mr O'Neil. You may proceed at any time.

Mr Chris O'Neil: First of all, I'd like to thank the committee for the opportunity to appear. I have been a tenant in Ontario for the last 20 years, and it's on that basis I'm making my presentation, and I expect I'll always be a tenant.

I currently live in a high-rise apartment building on Windsor's west side and this structure is owned by a responsible management group. Before that I lived in a building where, for several years, the landlord had routinely violated the law by charging illegal rents. Prior to that, I resided in a converted house that was overrun with vermin and where the landlord three times tried to evict me in the same calendar year because of a personality conflict.

My experiences with these landlords led to an active participation as a member of the board of directors of the Federation of Windsor-Essex County Tenants Associations. My time there sensitized me to various tenant issues beyond my own experience.

I'd first like to address the issue of rent control or the lack of same contained in the proposed legislation.

Let me state first that I am not philosophically opposed to the removal of rent control. I think Ontario tenants would've been much better served if the Tory government of the day had sought a different solution.

The Windsor Star recently editorialized that rent control was a province-wide solution to what was essentially a Toronto problem. Now the solution arrived at back then has become a problem for landlords and tenants across the province in terms of substantially low vacancy rates and automatic legislated increases.

In the current climate in Ontario, I view the removal of controls as a disaster for tenants, especially in light of the way it's structured in Bill 96. The government is giving landlords all the incentive they need to evict sitting tenants, as well as giving landlords of new properties a different set of rules from owners of existing properties.

If the intent of the government was to provide incentives to landlords to build new rental housing, while giving tenants some cost security, I believe they have failed on both counts.

In the early part of this decade I lived in British Columbia for a short time. Rent control had been in force in that province and then was completely removed as an incentive to prospective landlords. The province thought this would lead to a healthy rental environment in BC, but controls have been gone there for several years now and new rental units are not being built. At the moment, Vancouver has one of the lowest vacancy rates in the country and available rental housing is aging and overpriced.

1400

In Ontario, the government is proposing to exempt new rental housing from rent control permanently. If I was a prospective landlord in Ontario, I'd consider that. I'd also consider that there have been three changes in government in the province in the last 12 years, and each has instituted its own rent regulations. I'd also consider that if existing buildings still have rent control, there is always the possibility that new ones some day will as well.

The government has set a guideline increase of 3% the next year for sitting tenants together with an extra 4% increase the landlord can apply for with respect to capital expenditure. In addition, if I'm reading the proposed legislation correctly, there is no limit to a rent increase the

landlord can apply for if they experience large property tax increases.

In view of the fact that the government is currently downloading several services on to municipalities, I think it is inevitable that large property tax increases will be forthcoming. In that event, two things will happen: Irresponsible landlords will begin evicting sitting tenants so they can offer their units to the highest bidder, while responsible landlords will begin flooding the new Ontario Rental Housing Tribunal with applications for above-guideline rent increases. In either scenario, tenants will lose. Therefore, I'm urging the government to keep rent control in its present form so that tenants will have some cost security. It's bad enough that tenants are subjected to automatic legislated increases every year, but in this instance at least we know exactly how much the increase will be.

I firmly believe that rent control must be kept in force in Ontario until such time as the rental market arrives at a place where market forces will determine how much rent a landlord can charge and how much a tenant is willing to pay.

I would also like to address the issue of a new housing tribunal. In the past, I've had issues decided in both landlord-tenant court and by rent control hearings. Matters decided in court have traditionally had more impact on tenants and thus have needed to be handled in an expeditious manner. They have also been required to be dealt with in a manner nobody could question. Justice not only had to be done but be seen to be done.

In matters of rent control hearings, I found this process to be extremely time-consuming. In my dispute with the landlord who was charging illegal rents, I filed my application in April 1994 and no hearing was conducted until December of that year.

In the 1980s another landlord filed an appeal of a rent review order in September 1990 and it was not heard until the middle of the following year; this after it took the ministry nearly a year to rule on the original application.

If the government is now contemplating lumping disputes previously heard in court into this mix, I imagine the backlogs will be even lengthier than before. I'd like to recommend that disputes currently being decided in court be left there so that tenants and landlords both know the process is free from political interference, or, failing that, that the option of choosing the courts be left to the affected parties. Believe me, in matters concerning eviction, I would definitely choose landlord-tenant court.

My major concern regarding the tribunal, other than the backlogs that may ensue, is the issue of fairness. My understanding is that tribunal adjudicators will be appointed by the Ontario cabinet. I don't see much in Bill 96 that will protect tenants, and if our only recourse is a body that reflects the current government's bias, we won't be able to get a fair hearing anywhere in the province. I would add that this process could swing the other way if a government friendly to tenants is elected and adjudicators were appointed who reflected that bias. I certainly hope and expect that appointed adjudicators receive their posi-

tions because of their knowledge of landlord-tenant matters and that the process of selection is open to public scrutiny.

Under the present tenant legislation, landlords and tenants can file applications at no charge. The new legislation will allow fees to be charged to both. I would applaud the intent of filing fees if I saw its purpose as merely preventing frivolous applications. However, in light of the proposed legislation, I see the institution of filing fees as an attack on tenants at the lower end of the economic scale.

Many landlords will attempt to evict tenants so they can charge higher rents, and this will be particularly true for low-income tenants in low-cost housing. Therefore, if tenants choose to challenge the landlord's eviction notice, they might incur a cost that would be prohibitive for them. If the tenant chooses not to go this route, the only choice left would be to accept the notice, move and pay a higher rent elsewhere. Most landlords can afford to pay application fees. I urge the government to keep filing fees as low as possible, if they must be instituted at all.

I would next like to address the issue of privacy. My personal belief is that my right to privacy supersedes, except in very exceptional circumstances, the landlord's right of entry. I've had personal experience with a landlord who frequently violated my privacy rights, so I know how unsettling this can be to a tenant.

The legislation gives landlords the right to enter an apartment when the landlord has given the tenant a notice of termination; this in spite of the fact that a tenant may choose to challenge the notice. I would urge that this provision be removed from the legislation unless the tenant agrees in writing to accept the termination notice.

The legislation also proposes that entry by a landlord may be any time between 8 am and 8 pm with 24 hours' written notice. Since the proposed legislation also gives landlords new rights of entry they previously did not enjoy for prospective purchasers, mortgagees and insurers, the opportunity is there for landlords to legally harass tenants by exercising their rights of entry on an ongoing basis. Permit me to suggest that tenants should have the option of being present at the time of entry, and entry time should be specified on the notice.

Finally, I would like to address the issue of funding for tenant advocacy. This matter is not dealt with Bill 96 and perhaps it is beyond the scope of this legislation, but in the event that it is not, I wish to speak to it.

As I mentioned earlier, I was a member of the board of directors of a local tenants' federation for several years. The bulk of our funding came from the province, a practice which ceased when the current government took office. When our funding was cut off, FOWECTA ceased to exist in every way except name. Our group was not singled out by any means, since the government stopped funding any organization in the province that was exclusively concerned with tenant rights.

The housing minister spoke to this issue in August 1995 when he said he had no problem with such groups existing, but taxpayers shouldn't have to pay for them. Well,

Mr Leach, I couldn't agree with that philosophy more. At the same time, I have seen under the current legislation and I certainly foresee under the proposed legislation the absolute need for tenant advocates.

The United Tenants of Ontario had requested that the government institute a \$1-a-month dues checkoff for all tenants in Ontario in 1996, with the money to be used to fund tenant advocacy groups. Surveys by UTO have shown that a significant majority of Ontario tenants supported the idea of contributing financially to their well-being in terms of housing. My understanding is that UTO submitted their proposals concerning the dues checkoff in February of last year. I'd like to know when or if the government intends to act on this matter, and if not, why not.

In conclusion, permit me to state that I perceive Bill 96 in its present form as having very little to do with the protection of tenants. It removes cost security even for sitting tenants, makes it logical and relatively easy for irresponsible landlords to evict tenants so that they can raise rents, provides no incentive for landlords to build new rental housing, erodes privacy rights, could possibly eliminate even the appearance of fairness in deciding disputes between landlords and tenants, and does not provide funding for tenant advocacy.

I can guarantee the government one thing, however. This legislation, if passed as is, will definitely wake tenants up. Government would do well to remember what happened in 1990 when Ontario tenants voted massively against the Liberals because we were mad as hell over the rent review system. It's clearly not in your interest to make us mad, because if you do you will find we can make you uncomfortable.

I thank the committee again for the opportunity to address this important issue.

The Chair: Thank you, Mr O'Neil. We have time for a very brief question, and we'll give that to the New Democratic caucus.

Mr Len Wood: Thank you for your presentation. I agree with you wholeheartedly. The legislation that was sitting there before 1990 was of no value. We've got a by-election going on now and now's the time to voice your concerns.

Thank you once again for your presentation. I've said all along that Bill 96 should be scrapped because it's not going to do anything for tenants out there, and it's going to make a lot of homeless people.

The Chair: Mr O'Neil, thank you for coming and for your presentation. I also thank you for cooperating with respect to the agenda.

WINDSOR-ESSEX BILINGUAL LEGAL CLINIC

The Chair: The third presentation this afternoon is the Windsor-Essex Bilingual Legal Clinic, Patricia Broad. Good afternoon to you.

Ms Patricia Broad: Good afternoon. Thank you for allowing us to present to your committee. These submis-

sions are from the Windsor-Essex Bilingual Legal Clinic. We provide legal advice and representation to lower-income residents in the Windsor-Essex area. We practise predominantly social assistance, workers' compensation and landlord-tenant law. In preparing these submissions, we rely on our practical experience as well as our understanding of the Landlord and Tenant Act and the proposed Tenant Protection Act.

In our clinic, we do not specialize in any one area of law. As such, I cannot claim to be an expert on landlord and tenant matters. However, as I practise law in various areas, I hope I can bring a perspective that will be of assistance to you.

1410

The Tenant Protection Act proposes many radical changes to landlord and tenant relationships. We have selected some of the most important ones. We will be talking about rent decontrol, procedure and limitation periods. It is clear that an underlying theme to this legislation is that it will shift the power balance between landlords and tenants so that landlords are in an even more powerful position.

To begin with, I would like to make my submission regarding rent decontrol. Section 116 of the Tenant Protection Act indicates that rent control is gone for new units and for new tenants. As you know, this means that as of now, tenants and landlords will negotiate rents. As we have indicated, this is a particularly harsh measure against lower-income individuals, and I'm sure you've heard quite a bit of that in your meetings.

People receiving general welfare and single mothers or single parents on mother's allowance will suffer the most under these provisions. When negotiating rent, they will be in an unequal bargaining position, as they have fewer resources and they will be faced with limitations on the amount of time that they will have to find a place to live.

In fact — again, I'm sure you've heard this before, but I'll say it again — it is our submission that this measure will create an incentive for landlords to evict tenants. A landlord rents units in order to make a profit. Under this proposal, the easiest way for the landlord to make a profit is to evict a tenant and to charge a higher rent for the new tenant. A landlord can ensure that a tenant will want to leave an apartment. As a tenant, I can assure you this is the case. Further, a landlord can and will look for ways to evict tenants.

It is ironic that at the same time the government is creating an incentive to evict tenants, it is introducing provisions that limit a tenant's defence against eviction. Under subsection 121(3) of the Landlord and Tenant Act, a judge would refuse to grant an application for eviction where he or she was satisfied that "a" reason for the landlord's application was that the tenant complained to the government, had attempted to secure or enforce his or her legal rights, is a member of a tenants' association, or that the premises are occupied by children. Of course, I have boiled down that provision, but that's the gist of it.

Under section 79 of the Tenant Protection Act, it states that in order for a landlord's application to be refused, one

of those reasons must be "the" reason for the landlord's application. As any advocate will tell you, landlord and tenant matters are rarely limited to one issue. In fact, these matters tend to build up over a course of time. By the time an application is made, there are usually several issues to be resolved. It is likely that a landlord could introduce other issues in order to evict the tenant for one mode of tenant behaviour that under the old act would have protected the tenant from eviction under subsection 121(3). By introducing section 79, the government is limiting the tenant's protection from eviction for attempting to exercise his or her legitimate rights.

Further, the Tenant Protection Act states that a landlord's application shall be refused only if she or he is in serious breach of his or her obligations or a material covenant in the tenancy agreement. As you know, under the Landlord and Tenant Act, an application is refused if a landlord is in breach of an obligation. Again, this limits a tenant's protection against unfair eviction.

In our submission, it's questionable whether this legislation should be called the Tenant Protection Act. It is true that the Tenant Protection Act provides protection against harassment. However, in our submission, this will not stop a landlord from harassing a tenant until the tenant leaves. No tenant will want to apply to the tribunal for relief against a landlord while living at the apartment. A tenant is aware that he does not own the property he is living on; it is the landlord's property. It is foolish to incite a person when you are living on his or her property. A tenant will do his or her best to stay on the good side of the landlord. Otherwise, they can expect powerful retaliation from a landlord.

Given the serious cuts in tenants' rights, we should ask ourselves if the government is going in the right direction. Are these measures going to lead to greater investment from the construction industry or more housing for tenants? Unfortunately, there is no guarantee that it will do so, and there are some indications that it may not.

On June 19, 1997, at this hearing, Tom Collins, a tenant lawyer and former executive director of the Rent Regulation Board of New York City, spoke before the committee. Mr Collins stated that New York City's three-year experiment with vacancy decontrol in the 1970s increased rents by 52%, more than doubled the level of harassment of tenants and produced no increase in the building of rental housing.

Further, in the *Globe and Mail* dated Friday, June 13, 1997, it is stated, "Housing Minister Al Leach agreed that the proposals, which would remove the ceiling on rent increases as tenants vacate apartments, will not be enough by themselves to stimulate a surge in construction of new apartments." It is clear that the government will cut tenants' rights without guaranteeing any benefit to society as a whole.

We also submit that the Tenant Protection Act reforms are consistent with other reforms that have been brought by this government. The government has cut general welfare and mother's allowance, it has introduced measures in the Workers' Compensation Act that will reduce or elimi-

nate benefits for legitimate claims and, as you know, it is redefining the definition of "disability" under the Social Assistance Reform Act. It is our submission that these measures will prejudice persons who are attempting to enforce their rights. As we have stated, these measures in the Tenant Protection Act will have a disproportionate impact on lower-income individuals.

As stated in the *Globe and Mail*, August 20, 1996:

"About a third of Ontario's population, 3.3 million people, are tenants, and they pay \$10 billion a year in rent. Renters tend to be less affluent, with tenant households having an average household income of \$34,000 a year compared with about \$60,000 for homeowners."

Normally, about 20% of units become vacant annually. It is clear that the government has introduced these measures as a form of social engineering which it hopes will create a stronger economy. However, it is also clear that there are no guarantees that these measures will strengthen the economy. Rather, it guarantees that people with little money will be even more vulnerable and will suffer more.

The question is, how does this all interact? Welfare cuts have led to an increase in evictions in the metropolitan area of 136%. Women and children have had to relocate to trailer parks and basements in order to have enough money to pay for their food.

Approximately one third of renters pay more than 30% of their income towards housing; 66% of social assistance recipients are paying more than their shelter allowance, because as I'm sure you know, the government cheques are divided into a shelter component as well as your basic needs; and 83% of all two-parent families with two children on social assistance have shelter costs above the maximum shelter allowance. They are forced to take the money from the food and basic assistance in order to pay for their rent, which is similar to what the lady from the AIDS committee was telling you.

It is our submission that the limitation period provided in section 131 of the Tenant Protection Act is unfair. This section states that an illegal rent will become legal after one year. It will be difficult for a tenant to find out what the actual legal rent of an apartment was, and the tenant may not know there was an illegal rent until more than one year. This provision enables landlords to charge illegal rents at the tenant's expense.

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Further, it is submitted, and I'm sure other people have brought this to your attention, that it is unfair to set a one-year limitation period on tenant applications regarding repairs. Problems with an apartment may accumulate and a tenant may wait until there are several problems before applying to the tribunal. Now the onus is on the tenant to bring applications for every little problem. Again, landlord and tenant disputes are usually complicated. There is rarely one single issue in dispute.

I understand, as Mr Gilchrist has said, that there is a provision regarding reasons which must be provided when notice is given by a landlord to the tenant. As you can tell, I'm in my procedures section. However, if indeed notice must be given in writing and it must be signed, we would

request that this be clearly drafted, because when one is practising in this area of law, unless measures are clearly written out, it is very difficult to enforce these rights.

A large problem, as has been stated already, is the provision stating that a verbal agreement can be considered an enforceable agreement to terminate. Under section 72 of the Tenant Protection Act, the landlord can enforce this agreement without notice. We have seen in our practice many times where it is not clear between a landlord and a tenant if there was a verbal agreement or not. Remember, landlord and tenant relationships pass through a long period of time and they become very complicated. There are many conversations between landlord and tenant. A tenant may think that the agreement is void or, worse, an unscrupulous landlord could lead a tenant to believe it is void and change his or her mind without telling the tenant. Indeed, I've had a case where that happened. A tenant may find themselves evicted from where they live without notice.

It is my understanding that motions to set aside a default order must now be brought within 10 days after the order is issued. Again, this is a provision that the landlord can easily circumvent simply by not serving it on the tenant. In other words, a tenant can be out of town and come back and find that the locks are changed on his or her apartment. This is a serious breach of natural justice and one that infringes directly on a person's sense of security.

It is our submission that while there were certainly some difficulties with the Landlord and Tenant Act, what I found in practice was that it was usually enforced in a reasonable manner, and when I say that, I mean a reasonable manner for tenants as well as for landlords. If an application was found void because there was a defect in procedure, it was usually because the defect in procedure seriously prejudiced the tenant's rights. In other words, I never saw an application thrown out of landlord and tenant court over a technicality that didn't have some impact on the tenant. However, the government has still introduced legislation that will make it easier to evict tenants, and that takes rights away from tenants.

If you would like me to elaborate on that point, if a notice of eviction had a wrong date on it or some small matter, generally the courts wouldn't necessarily throw the whole application out; they would still continue with it, unless it was a procedural difficulty where there was no affidavit of service on file so there was no proof that the tenant ever got the notice of eviction. Those cases, where it was clear there was a breach of a fundamental right, were the applications that were thrown out.

When they're selecting members for the tribunal, we request that the government choose members who are experts in the field of landlord and tenant law. We believe it would be helpful both for the members of the tribunal and for the public that there be a code of ethics.

In conclusion, we'd like to say that a careful analysis of the Tenant Protection Act indicates that it provides more power to the landlord and less to the tenant. Rents will be negotiated. Tenants, as you know, move frequently, and in

a few years the protection provided by the Rent Control Act will be effectively phased out. Tenants are faced with new limitation periods. The rules for eviction have been facilitated in favour of the landlord.

Unfortunately, I wasn't able to touch on all the changes that the Tenant Protection Act has brought; however, from what I've practised, those were the most glaring changes. These changes could be serious in that they may affect a person's basic security, namely, where they live. Unless a person has been evicted or harassed or abused by a landlord, it is impossible to imagine how powerless a tenant really is. At the clinic, we see it frequently. With the changes proposed in the Tenant Protection Act, we're afraid that we'll see more of it.

Also, as part of the conclusion, I would like to address a point that Mr Duncan made earlier, because as a practitioner in this area, I may be able to provide some information that is helpful.

The Chair: I regret to inform you that you have only two minutes left.

Ms Broad: I'm sorry. I didn't realize I was going over time.

The Chair: That's quite all right. It's your time. You can do with it what you like. You have two minutes left.

Ms Broad: As quickly as I can, then. You asked about the old system and the movement towards the tribunal system. In our submission this is a good idea. A tribunal system could be better in that it would be less adversarial, we hope, in an area that is highly emotional and very adversarial. In that respect, we're looking forward to practising in that domain. We also think it could be more expedient.

However, our concern with some of the proposals — correct me if I'm wrong, but when I read the act, I see that the time limits are pretty harsh. We're worried about that. A landlord can apply forthwith now to have a tribunal hearing. Before, it would have to be after the 20 days. That's of great concern to us, because tenants have a difficult time acquiring the evidence necessary for their case. We anticipate there could be problems with that aspect of the legislation, but overall, the move to a tribunal and out of the courts we hope will be better, and hopefully the mediation too. We're looking forward to the mediation. There is concern about the power imbalances there; however, hopefully people like our clinic can get involved and help regulate that.

The Chair: Thank you, Ms Broad, for coming. Unfortunately, your time has expired, but we appreciate your presentation.

1430

CITY OF WINDSOR

The Chair: The next presenter is Ed Link, who is a building commissioner. We welcome you to the committee, sir.

Mr Ed Link: Good afternoon. I'd like to clarify one point before I start. When my secretary was asked what group I was representing, she mentioned I was here to

represent the Large Municipalities Chief Building Officials group. While I am a founding member of that group and on the board of directors, my comments are folded in with their presentation which will be presented in Toronto when you have your hearings there.

I'm here today as a building commissioner for the city of Windsor. The brief I have before you today is being delivered not necessarily in conflict with the position of the Large Municipalities Chief Building Officials or the Ontario Building Officials Association or the Toronto Area Chief Building Officials Committee. We've shared our briefs and I believe the presentation I'm making here today will augment their position.

The city of Windsor has been involved in the enforcement of property standards since 1957, when an amendment to the City of Windsor Act enabled my municipality to become the third city in Ontario to establish a property standards bylaw.

The city of Windsor has an interest in protecting its existing housing stock. Occasionally, this will include the prosecution of individuals who have not maintained their property in accordance with minimum standards. It is our goal to alter behaviour and not necessarily to punish our citizens. The following comments are being offered in the hope that Bill 96 will be modified to provide a more effective and efficient method of enforcing the legislation and our own municipal property standards bylaw.

To begin with, part VII of Bill 96 will amend the legislation related to the provision and maintenance of vital services. Since its enactment, very few municipalities have created municipal bylaws for the provision of vital services. Those that have done so have received special legislation to recover municipal expenditures as taxes and not as a lien on property. Municipalities do not wish to become the lenders of last resort with, in some cases, very little hope of recovering our expenses. Our recommendation before you today is to allow the cost of maintaining vital services to be recovered as taxes.

The Large Municipalities Chief Building Officials group has already held this position, and they in turn have written both to the Premier and to the Minister of Municipal Affairs and Housing.

Procedures for the enforcement of property standards bylaws will be streamlined with the passage of Bill 96. There will still be times when property owners choose not to comply with minimum standards and it'll be necessary to commence court action. The increase in the maximum fines in all likelihood will not motivate a change in behaviour. Court action is a very time-consuming process with very little guarantee of success. Upon conviction, the fines tend to be rather small — based on our experience over the last five years, the average is approximately \$250 or less — and there's very little incentive for the payment of the fine. Furthermore, most municipalities do not take the necessary steps to collect on delinquent accounts.

Where fines are unpaid, it is up to the municipality to prepare a letter to the clerk of the court requesting a certificate of default, which is then filed in Small Claims Court. Once a certificate of default has been filed by the

municipality, the municipality then files a request for enforcement to issue a writ of seizure and sale with that office and to file that writ in the sheriff's office, the registry office and land titles office. This acts as a lien on the property and, if not discharged by the owner, must be renewed every six years by the municipality. The cost to the municipality of \$101 for the registration of the document is then recoverable, with interest, on the amount outstanding. Currently, the post-judgement interest rates are set at 5% per quarter. This, once again, does not include our legal expenses, which are absorbed by the municipality.

A far more effective, efficient and businesslike way of handling this is obviously to allow the municipalities to recover outstanding fines by placing them on the tax roll and collecting them as taxes.

Financial programs to assist in the maintenance and upgrading of the province's rental housing stock have been terminated, with the exception of programs to modify units for occupants with disabilities. As far as I'm aware, only two municipalities, Toronto and Hamilton, have enacted bylaws to create low-interest loan programs for the upgrading of the dwelling units in their communities. Without financial assistance, building officials like myself must resort to punitive action to obtain results.

The fines assessed by the courts, while they're usually small, could be better used to repair dwellings. Oftentimes in our case, once the person is found guilty, particularly if it's an owner-occupant, we've asked for a stay of anywhere from a month to three months, depending on the situation, so that the individual can repair the dwelling. At that point, when it comes to the actual fining process, we're then able to present the justice of the peace with a track record of what the individual has done, as an additional enticement to get the work done as opposed to actually fining our citizens.

Once again, the most vulnerable members of our society require financial assistance to maintain their property. Our council has gone on record requesting the province to give consideration to the re-enactment of financial programs to assist in the rehabilitation of our municipal housing stock.

We currently have in our possession approximately \$200,000 in loans which are being processed. As the money comes in, we're supposed to return it to the province. What we're hoping, because it does not take any additional funding, is that programs can be reinstated to maintain our existing housing stock.

That concludes my presentation. The recommendations are fairly simple. I thank you very much for the opportunity to be before this committee and make this presentation. I'm also prepared to answer any questions you may have.

Mr Beaubien: Good afternoon, Mr Link. It's nice to see you in downtown Windsor. The city of Windsor was very visionary, I guess, in 1957 when they were the third municipality in Ontario to establish property standards bylaws. I agree that the process might be unwieldy and

slow at times, but I think it has worked quite well in most municipalities in Ontario in the past number of years.

I have some difficulties. This morning we had a presentation from Legal Assistance of Windsor, and I will read from their presentation:

"The city of Windsor building department has placed a priority on inspection of new buildings, resulting in inspections of existing buildings with respect to complaints receiving a low priority. It can be difficult to get a building inspector to attend at premises, and when they do, they focus on the exterior. I have been advised that they may start only inspecting the exterior and avoid going inside at all."

Could you comment on that?

Mr Link: Yes, I can. With the increase in the level of construction — to give you an order of magnitude, in the last five years we've had more construction in this community than in the previous 15 years combined. With limited municipal resources, we've focused our attention on, I'll say, the present workload, which is on new construction, because we have an obligation in that respect.

The enforcement of municipal bylaws by and large is discretionary. We've tried to prioritize this, with the most serious complaints going to the top of the list, in other words, ones that involve an immediate threat to life, safety or health. Issues that are more aesthetic or nuisance-type complaints are dealt with in a lower priority. We currently spend probably less than 10% of our staff time dealing with the enforcement of bylaws, where normally that would be in the range of 25% to 30%. That's just based on the current workload.

Mr Beaubien: Then I would be correct to assume that if there was a situation in a building in Windsor that could potentially affect the health or safety of individuals, it would be given top priority with regard to having a report done on the property itself.

Mr Link: That's correct.

Mr Duncan: Thanks, Mr Link. It's good to see you again. I wanted to raise one issue with you in your presentation. It's a legal issue, I suppose. I imagine there's a reason these types of recoveries have not been classified as taxes in the past. Would there be impediments in other statutes to referring to these recoveries as taxes?

Mr Link: There may be some impediments related to that. Once again, the process is established in the courts. What I was hoping is that the legislation would be amended by very simply saying that if a municipality had outstanding fines they could be recovered as taxes. It's fairly simple. It saves the province all kinds of handling in staff time and everything else and it's very simple for the municipality. We can then use our discretion in how we proceed. Once again I wish to emphasize that we want to see property upgraded. This is not to be a punitive action.

Mr Duncan: These taxes could then be used for those purposes?

Mr Link: If collected as taxes, it makes it simpler for us and it acts as an additional means of leverage, where we can encourage people to repair their property and keep it upgraded, as opposed to working out other arrangements

where we have to be very diligent in our efforts to extract the fines.

Mr Len Wood: As a follow-up to the question from Mr Beaubien, as of January 1 there are \$600 million in services that the municipalities are going to have to pick up, which is going to mean restructuring and downsizing.

We have a situation in Timmins that was in the paper a couple of days ago, where a business has had to shut down because the only inspector around was on vacation and they could not afford to hire a replacement for vacations, so the business had to shut down and lay off 15 employees until that inspector comes back from vacation. Can you see this happening, maybe not necessarily in Windsor but in some of the other areas throughout the province as you reduce and downsize and try to live within the means without having big tax increases, staff not being available to look after these situations?

Mr Link: Based on the experience I have, which is basically with a larger city, we have the resources. As a larger city, if areas are amalgamated, you can provide for some efficiency in the delivery of service, with a hope that you can cross-train individuals to provide various activities that are normally provided by a larger municipality.

When it comes to, for example, permit fees and things like that for construction, we operate on a cost-recovery basis. In fact, we're looked at as a revenue generator in that regard. I lose money on bylaw enforcement. My legal cost alone is \$60,000 a year for legal services and I recover maybe about 80% of that through fines assessed, and of the fines assessed, I collect on maybe 60% of those. It's not very cost-effective from a business perspective.

Mr Len Wood: There's a possibility that you'd have to introduce higher user-pay fees for this work to be done. You're saying you've had to reduce the amount of buildings being inspected now in favour of new construction. That could be reduced even more, or you'd have to increase user fees or find some way of getting revenue.

Mr Link: It's a matter of resource allocation. I have only so many staff, so many vehicles, and one has to make judgement calls as to where you're going to put those individuals and those resources.

Mr Duncan: I'd like to ask to ask a question of the minister's staff. I think it's salient. The parliamentary assistant and I were just reviewing page 99, subsection (4), which says, "and the amount shall be deemed to be municipal real property taxes and may be added by the clerk of the municipality to the collector's roll and collected in the same manner and with the same priorities as municipal real property taxes." Is it the view of the ministry that that would address the concerns raised by Mr Link?

Mr Gilchrist: That is what we believe is the appropriate solution, yes.

Mr Link: I have an older copy of the document. In the earlier version I believe it was to be as a lien on property. That may have been subsequently changed.

Mr Gilchrist: I'll be pleased to show it to you.

The Chair: Mr Link, thank you very much.

The next presenter is Barry Furlonger of Downtown Mission. We're a little off schedule. I'm going to run through the list and see if anyone else is here. If not, we'll have to have a short recess. Margaret Simpson of Essex County Children's Aid Society? Tilda DiMenna of Sun Parlour Income Property Association? Clerk, could you call out in the hall and see if Mr Furlonger is here? If not, we'll have to recess.

The committee recessed from 1445 to 1500.

DOWNTOWN MISSION

The Chair: Perhaps I could ask committee members to return to the table. I understand Mr Furlonger representing Downtown Mission has arrived. Good afternoon, sir. You may proceed.

Mr Barry Furlonger: Good afternoon. I'll try to stay below the 20 minutes I was allotted. Is that the spot I have, 20 minutes?

The Chair: You are allotted 20 minutes, yes. Your time is how you wish to use it. You can allow time for questions or you can speak for the full 20 minutes.

Mr Furlonger: I think I'll be less than 20 if I timed this right. The proposed changes to gut rent legislation are just one more brick in the wall. It's a big brick and it will make the wall even higher. The wall I'm referring to is the wall that this society is building between the rich and the poor.

Over a year ago, the provincial government made drastic cuts to the welfare system in this province. What was especially drastic about those cuts was the unrealistic amounts allowed for rents. The amount allowed for a family with two children went from \$707 to \$554. You cannot rent a two-bedroom or a three-bedroom apartment for that amount of money, let alone pay utility bills.

The result across the province is that tens of thousands of children are living in households where \$100 to \$200 a month is taken out of the food budget to pay rent and utilities. That's why the mission's food bank demand went up 30% and some food banks went up 50% to 100%.

Today I served a lady who's paying \$700 for an apartment. She's allowed \$554. She pays \$56 a month electricity on top of that. She's trying to feed herself and two children on \$330 or something like that, and on top of that, her husband's support payments are behind by \$900 because the system in Toronto that's supposed to kick that cheque out has failed her too.

At the low end of the housing market where people are living on welfare, disability or low-wage jobs — and for every person on welfare there's about two families out there who are at the bottom end of the wage market and are just above that welfare level of income — the vacancy rate is very low. Most of these units — and I've dealt with these landlords. I've been a landlord. I know a lot of these landlords, some of them good, some of them bad.

Most of those landlords who own those units at the bottom end of the market buy existing units and use the income to pay the mortgage and to pay their costs. They have neither the inclination, the money or the resources to

build new units. That's not the business they're in. They don't have the money to do it. They make a minimum down payment and the moment they take over the units or within a month they've got income from the renters. That's how they do their business, then they buy another unit and another unit and they use the equity on their old units to buy the other units. They're not going to build new units. That's not the business they're in. What will happen is, with rent controls off, the rents are going to climb. That's a given.

The horror stories I hear from people in this position are both depressing and scary. Most landlords are responsible people, but the bottom end of the market seems to attract the worst of the landlords — not all but some. You have landlords who make large families bid against each other for a house: "Oh, I've got a family that's going to give me \$625. What will you give me?" That goes on right now, and that's with rent controls.

You have landlords too cheap to put in electric meters when they convert a house to a two- or three-unit building. They throw up a few walls, throw in a staircase and don't even bother putting in new electric meters: "Collect the electric bill from the tenant upstairs. The electric bill's in his name. If the tenant skips, you're stuck with it because I'm too cheap to do that." That's illegal, but they do it. Or landlords too cheap to buy a couple of tubes of caulking for a house that hasn't had a dime spent on it in 20 years but, "You pay the utility bill." The gas bill's \$200, \$300, \$400 in the middle of winter because the wind blows through the windows and under the doors but, "Give me my rent, but I won't spend any money on the building."

Landlords evict tenants because they're too pushy and actually ask for something to be fixed. You have in this market some responsible landlords, but you have slumlords and slimelords. I call them "slimelords." My definition of a slumlord is somebody who owns a slum but maintains it at that level. They minimally spend enough to keep it where it's at. A slimelord is someone who owns a dump and won't even spend any money to keep it at that level, but he still wants his rent.

Both these groups will raise the rent to whatever the market will bear, but a roof is not like a car or a washing machine. You or I, when we're going to purchase something like that, we take a little while, we look around, see what's the best deal and when something's going to go on sale and who's going to give me the best deal. A roof is not an ordinary commodity in the marketplace. You have to have a roof today. You can't wait. It's a different kind of commodity. It's not quite like the normal marketplace commodity.

When I see the fear and tears in the eyes of the mothers who pay the rent and heating bills with their children's food money, I ask about the rent and the response is, time after time: "I can't find anything else. I've looked, I've looked, I've looked. What choice do I have?" They have no choice. It's not a normal market situation. You have a choice and it's to say no to gutting rent control legislation.

If you want to see what happens to a society where people just sort of let a whole group of people just kind of

slide down the economic ladder and right off the end of it, how many people here are from Windsor? The rest of you are out of town?

The Chair: We're from all across the province.

Mr Furlonger: Okay. Get a car, drive across the bridge. Don't go on the expressway. Go two blocks past coming off the bridge, hang a right-hand turn and you'll see what happens in a society that takes a whole bunch of people and just shoves them off the ladder. You'll see sections of Detroit that look how Beirut used to look in the TV coverage a few years ago. You'll see despair, you'll see hopelessness, you'll see drugs and you'll see crime. If you think that can't happen here, then you're fooling yourself because if you shove enough people off the end of the economic ladder, at some point they reach a critical mass and then all kinds of bad things start happening, and this is just one more move to do that.

In Canada most of our major cities are still livable and still reasonably safe. Can you say that of most major cities in the States? Ask yourself why that is. The reason it's relatively safe here is because in three areas we give a damn about people and in three areas we say to people, "Well, we're all sort of equal," and those three areas are education, health care and the social safety net.

In the United States with those first two, health care and education, it's a two-tiered system. The health care system is a two-tiered system. What they spend on a kid for education in downtown Detroit compared to what they spend in suburbia is way, way different, not to mention the private schools. The social safety net in the United States is a tattered mess compared to ours. As bad as ours is, it still looks good compared to what's over there.

Getting rid of rent controls is one way of gutting the safety net. Downloading is another way. Decreasing welfare payments is another way, and this will just be another brick in that wall. This is a formula for disaster and if you don't think we're going to pay a big price for it in the end, you better think again.

Ask yourself why the United States has 5% of the world's population and uses 50% of the world's illegal drugs. It's not just drugs in the ghetto, it's drugs in the middle class. It's middle-class kids taking those drugs. It cuts right across society. Why does that happen? Because on some subliminal level those kids pick up on the hopelessness, the despair and the alienation. That's a society that's built on the keen edge of success, but if you are not successful, they don't give a damn about you. "We'll give you second-class education, we'll give you second-class health care and we'll give you a tattered social safety net that leaves you in grinding poverty."

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The message for everybody is, "Don't fail, don't stumble, don't get sick, don't get downsized, don't get old, don't get divorced, don't get born into a poor family because we don't give a damn about you as long as we get ours." That's the message that's inherent in that society and that's why that society is like it is and ours is like ours is in terms of the safety of the cities and livability of the cities.

If you have a blind faith in the marketplace, look out for what the consequences are going to be in the long run because that sharp sword of success that the US system runs on and we seem hellbent on duplicating is a double-edged sword; it cuts both ways. If you think you or your family can escape the long-term consequences of a society that is full of despair and hopelessness for a big chunk of that society, then you're fooling yourself because in the long run — it may take one year, it may take five years, it may take 10 years — some of you around this table will ultimately pay the price for what you are about to do.

Open up your eyes. Get in a car and go across the river. I dare you to, but maybe don't go after dark. I dare you. Go over there and see what happens to a society that says, "Here's a whole group of people we don't give a damn about." It was done, we know, on the basis of race, but you can do the same thing on the basis of income. We can just take a whole group and say, "We don't give a damn about you. If we cut your welfare payments so you can't get a dump for what we give you, tough luck." Now gut the rent control legislation and let the slumlords and the slimelords have their day. "Tough luck. As long as I get mine, I'm okay."

Open up your eyes to the fact that there are thousands of children today in this province who, because of welfare cuts, are existing on empty calories. The mother who today is trying to feed and clothe her kids on \$330 a month is feeding her kids empty calories. Those kids are living on Kraft dinners. What are the long-term consequences in terms of how alert you can be in school living on Kraft dinners? What are the long-term consequences in terms of health care? We already know that health care dollars for poor people are millions and millions of dollars more than for the rest of us, and that was before the cuts to welfare.

So take a hard look at it and open your eyes and just say no to this legislation that is being proposed. Thank you.

Mr Duncan: Thank you, Barry. I think that's a wise challenge to the government members because the government has welcomed Governor Engler with open arms and endorsed the policies that that state has followed. I would urge the government members to do that as well, if they get the chance. I know they're busy and they have to be at their next set of hearings, but perhaps another opportunity will come along.

I'd like to address an issue that was raised earlier around sections 36 and 200 of the bill and place a question to the government. I've reviewed now the memo that was placed by Anne Beaumont, dated August 8, where she deals with section 36 and section 200 of the bill. In fact it is the government's intention to not allow the use of income as a criterion, would the government be prepared to withdraw section 36 of the bill, which, according to the minister's assistant deputy minister, provides landlords with the authority to use income information in selecting prospective tenants?

If the position that has been put forward by the government with respect to section 200 and how it amends the Ontario Human Rights Code is correct — and by the way,

having reviewed this, I still don't concur with the government's position on that — then it would seem to me that, based on Ms Beaumont's comments, the government would therefore be prepared to withdraw section 36 of the bill, and if it is the government's intention to clarify a loophole in the Human Rights Code, only proceed with section 200 of the bill.

I'll place that as a question. I don't know if the government chooses to answer it now, but certainly we'd be interested to hear that opinion prior to clause-by-clause.

The Chair: We're on Mr Furlonger's time. I'm at the mercy of the committee.

Mr Gilchrist: I'd be pleased to have staff respond.

Mr Duncan: I think it's a political question. Are you prepared to withdraw section 36?

Mr Gilchrist: No, I think it's a technical question and I'd be pleased to give you an answer if you'd like to hear it.

Mr Duncan: Yes.

Mr Karl Cunningham: The reason for section 36 is that, once this bill has passed through the Legislature and has been proclaimed in force, you will not see section 200 in that bill because it's an amending provision.

The reason for section 36 is to alert landlords under the bill, because section 36 will continue, that they may use the type of business practices that are in section 36 in accordance with the regulations under the Human Rights Code. It simply illustrates to them or draws to their attention that they do have this right in accordance with the regulations under the Human Rights Code.

The Chair: We're now on to Mr Wood's time.

Mr Len Wood: Thank you for the excellent presentation. I agree with you that with what is basically the elimination of rent control what the Conservative government in Ontario considers to be 3.3 million special interest persons out there are going to have no protection whatsoever once this legislation is passed. We know that on new rental accommodation there will be no controls and on the old accommodation, as people continue to move, the rents will go up, so rent control is gone. The society that you're talking about, first of all you cut off the food money and the rent money for the welfare people, I guess it's two years next month. Now some of the same group of people are being attacked again because they won't be able to find rental accommodation.

I thought you made an excellent presentation. I'm waiting to see and hoping that I'll see some of the Conservatives stand up and vote against this legislation when it comes up for third reading, unless it's amended drastically so it will be fair and not be discriminatory against about one third of our people in Ontario.

Mr Gilchrist: I appreciate your making your presentation. If you'll allow me one brief digression, just as Mr Duncan did — unfortunately the way these proceedings take place, sometimes points get raised that can't be addressed until subsequent opportunities — Mr Wood raised the issue earlier and asked the question point blank: What about people who are blind and how do they have access to this? Well, while it was not the practice of your gov-

ernment, sir, both the consultation paper a year ago and the first reading copy of this bill are available on tape. We had them done at the CNIB and in fact we've had to reorder them three times based on the demand. Obviously they and we have done a good job of communicating with that sector of our province. The information is accessible to them and we invite their response as well.

Let me just ask you very quickly, sir, where is the role of the individual in all of this? We heard just before you arrived from the city's property standards chief here in Windsor. If in fact all of these problems exist right now, if in fact there are slumlords, and to use your term, slime-lords, is there not a role for the tenant to be raising that with the city of Windsor? Is there not an obligation, given that the city of Windsor has passed a property standards bylaw, to have that law enforced? If that is true, what is the role of your organization in alerting the general populace if the city is falling down on that job?

Mr Furlonger: I used those illustrations not to say there should be better enforcement of it because obviously there should be. I use those illustrations to illustrate the kind of landlords that exist out there. The point I'm trying to make is that the people who pull that kind of stuff — and sometimes they get called to task by a tenant finally, although sometimes it's four tenants before some tenant finally complains to the right bureaucracy and is patient enough to wait for somebody to do something about it — the same kind of mentality that pulls that kind of crap, pardon the expression, is the same kind of person who will make somebody bid for a unit.

Mr Gilchrist: That's why we have the laws to protect tenants.

Mr Furlonger: No, because you're not going to have any rent controls. Once rent controls disappear, this landlord can say: "Gee, Julie, the last tenant will give me \$650. Will you give me \$675?"

The Chair: Mr Furlonger, unfortunately we're out of time; in fact we're beyond time. You've raised some very salient points, and we thank you for coming.

1520

ESSEX COUNTY CHILDREN'S AID SOCIETY

The Chair: The next presenter is Margaret Simpson, a family service worker with the Essex County Children's Aid Society. Good afternoon.

Mrs Margaret Simpson: Good afternoon. I appreciate the opportunity of being here and presenting the position of the children's aid society on this new proposed legislation. You mentioned that I was a family service worker with children's aid. Indeed I am and have been for the past 23 years. I have had many sad, depressing times trying to help clients right on the front line with their problems with housing and trying to keep their families together. That's been my perspective.

The children's aid society has serious concerns in regard to the legislative amendments in Bill 96. Our specific

concern is related to section 200 of the proposed bill, which would amend the Human Rights Code to allow landlords to ask the prospective tenant for income information. If the applicant does not meet the income criteria of the landlord, tenancy would be denied on that basis alone.

The majority of families receiving services from the children's aid society are on social assistance. They include two-parent families, single-parent families, families new to Canada, adolescent mothers, adolescents who receive their income from the children's aid society or from social services. All our families are struggling financially to meet their own needs as well as the needs of their children, and housing is one of their primary needs.

Subsidized housing is the only type of housing that the majority of our clients can afford. Unfortunately, the government has a freeze on building new public housing. The waiting list for subsidized housing in Windsor is long. I called many of the housing institutions in Windsor, and I'll just cite one for an example. The Windsor Housing Authority has 828 families on their waiting list. They go on a point system, and someone who is struggling with two children, who does not have major health problems, who does not have to take their child for therapy once a week or can manage living on their own would not be at the top of the list — 800 people ahead of them when they apply for housing at Windsor Housing. As a result of the long waiting lists and fewer vacancies, many families have to wait at least two years — and that's a low number I'm giving — to acquire subsidized housing. What are these families to do in the meantime? They have to seek housing through the private sector. This is no easy task, especially since their income was cut by 21% last year and most landlords require first and last months' rent. That's a real toughie if they have a couple of children and their income is \$1,200 a month and they have to pay first and last months' rent.

Currently, many families have to resort to inadequate housing that poses a health and safety risk to both themselves and their children. It is not unusual to hear of water seeping through ceilings and windows, leaking toilets and taps, and cockroaches abounding. These families have no choice but to remain in private housing until public housing becomes available. Some mothers return to abusive situations because they are unable to acquire suitable housing and they believe it's better to take their chance on going back to an abusive situation than going on the street.

Currently, landlords cannot deny housing based on income information. However, as we know, if Bill 96 passes without the amendments being made, it will allow landlords to refuse housing based solely on the income of the prospective tenant. The majority of our families are in receipt of public assistance and would not qualify if the landlord were to use the 30% basis to decide whether they would rent to them.

We have found that many families on assistance are able to pay their rent. They don't meet the criteria, but they somehow pay the rent. How do they do it? They manage their money well. They get some part-time work;

baby-sitting is common for these mothers. They cut down on essentials: food and clothing. As we heard in the last presentation, it's very sad. They do cut down and they have their kids on macaroni and cheese. Many times a month I take the mother and the children to food banks to get food for them to carry on. But they pay their rent. That's the landlord's concern, the rent paid. I have to say to myself, at what cost? But their primary concern is having a roof over their head, so they pay their rent.

Another sad situation I find — it's not your problem but nevertheless it is sad — is that the schools have field trips for the children and they have pizza day and so on. These children don't take anything to school. Their mothers don't have the money to give them the kinds of things that we give our children when they go to school and we want them to fit in and have what every other kid has. They don't, and they stand out and they feel that. The mothers feel it more than the children do.

Another situation I had last year: The mother paid the rent but the gas was turned off. I went into that house all winter. I had a sweater on, jacket on, blazer and winter coat and I'm freezing in there. They're managing. They have a roof over their rent and their rent is paid. But I have to say, at what cost? They got through the winter and the summer came and they were able to manage. It's not a good situation in which some of our families live.

Other families are not able to acquire housing or maintain the rent. Many of these families come to the children's aid for assistance with housing. During the past seven months, January 1997 to July 1997, our statistics indicate that 121 families had major problems related to housing. When no resources can be found to assist these families, these children have to come into foster care at the children's aid society. Furthermore, our foster care is so full up to the brim that we have no more foster homes either. We are in a dire situation, and much of it is due to housing. This tendency will increase if Bill 96 is passed without amendments to section 200. It will be a sad state of affairs if our society, through its legislation, denies families housing and consequently the children have to come into children's aid care.

It is even more difficult for families whose children are already in foster care. We can't have them returned to them until — they cannot get any income to get more expensive housing. For example, when their children are in care they need a one-bedroom apartment; when the children come home they need a two-bedroom apartment. But social services will not give them that money until the children are home. They're in a catch-22 situation, because there's a period of time that takes much adjustment. It's very difficult for the parents to find housing for children returning from foster care.

1530

The children's aid society strongly urges the government to delete income information from section 200 of Bill 96. It is understandable that landlords seriously consider credit checks, credit references and rental history in selecting a prospective tenant. However, many young adults, single mothers and fathers, families new to our country,

have not had the opportunity to develop a credit record, credit references or a rental housing history. The children's aid society recommends that housing not be denied to these families. These families need an opportunity to prove themselves capable of being responsible tenants, which includes paying one's rent on time.

The children's aid society's responsibility is to facilitate strengthening families and if possible maintain children within their family unit. We need legislation that does not discriminate against our most needy families, especially the children in these families. Children need an opportunity to grow in a home environment that enhances their development, not that stunts their development through lack of food, lack of appropriate housing, illnesses and disease spread by the cockroaches and insects in their homes. They need an opportunity to be safe and healthy and parents need the opportunity to provide healthy and safe affordable housing for themselves and their children.

We believe that deleting "income information" from sections 200 and 36 of Bill 96, and not denying housing to those who have no credit record, credit references or credit history, will give our needy families an opportunity to give their children a good start in life. I strongly urge you to consider that in your recommendations to the government at this time.

Mr Len Wood: Thank you for your presentation. I find it interesting that you're saying a family had to go seven months through the winter with no gas. I guess it's because of the 21.5% cut for food and shelter. It's shameful to hear that. I hope Mike Harris is aware that because of action he is taking he's having people living in the cold and is not caring for the poor people in society. You're saying it's getting worse, that there are a lot more needy children out there since all the cuts and now with the elimination of rent control — we had a presentation this morning, a landlord representing the Essex landlord association, claiming that because there are all kinds of rental units available he had to lower his rent on a couple of apartments. Yet you're saying there are 800-some needy families waiting for subsidized housing.

Mrs Simpson: I wonder what the rent is with that landlord.

Mr Len Wood: I guess the condition of the apartments as well, if he had to lower them.

I would just make a comment, as I did to the other presenters, that I hope the Conservative caucus members who are going to be considering the amendments and voting on third reading are going to vote against this legislation unless amendments are made so that it stops discriminating against the one third of our society who are in rental accommodation throughout the province. Thank you for your presentation.

Mrs Munro: Thank you very much for appearing before us today. I wanted to ask you a couple of questions that relate to section 200. Clearly, that is a critical issue for you. You indicate on page 3 that you understand why landlords would want to have a menu of choice in terms of getting some background on a prospective tenant. Then you referred to those for whom that information may not

be available. I wondered if there was something that you think is appropriate for a landlord to be able to ask if the prospective tenant cannot provide a credit check or rental history.

Mrs Simpson: I don't know. Perhaps getting references from friends or people they have known or, if it's a refugee family, the people who sponsored them to come here, to get personal references about their integrity, their honesty, their past experiences and things other than money.

Mrs Munro: My second question comes from listening to a number of presentations where landlords have told us that they do rent to people on social assistance; they do not have a problem with this. I'm sure you'll agree with me that obviously there are many good landlords, as there are many good tenants.

Mrs Simpson: Yes, there are.

Mrs Munro: They have indicated that they are quite willing and, as a general practice, do accept tenants on social assistance. I wondered if you'd give us a comment on the recent announcement of the opportunity to have that paid directly to landlords under certain circumstances. What's your view of that?

Mrs Simpson: I think it can be very helpful to the client. That happens in subsidized housing.

Mrs Munro: Yes, but this is taking that a step further into the private sector.

Mrs Simpson: I think it's always best if these families can be responsible on their own, but sometimes if they have shown that they can't handle money that well and they are agreeing to that, I think it can be a good thing.

Mr Hoy: Good afternoon, and thank you for your presentation. Yours was similar to many others we've heard that talk about the poor, the working poor, the disadvantaged, the vulnerable in our society. I found it interesting and very worthwhile to hear you say, "They manage their money well."

Mrs Simpson: Some do, not all. The ones who pay their rent, yes.

Mr Hoy: But I'm pleased to hear you say that they do, because there is in society a stigma attached to those who are on certain assistance plans that none of them can manage their money. I'm pleased to hear you say that's not the case.

Mrs Simpson: No, it isn't the case. I appreciate your bringing up that point.

Mr Hoy: I think society has developed a certain idea that none of them can, and it's good to know that's not true.

The other thing I just wanted to mention was that some time ago I read an article that came from the United States; in it was an economic philosophy that when governments have difficulty managing the economy and we get into a situation with high unemployment, maybe coupled with a depression-type situation, governments tend to turn towards the vulnerable and blame them for all the ills of society. This fellow traced that actually happening in the United States and showed proof of that. Governments were no longer able, in a global society, to stimulate the

economy the way they wanted to, so they blamed the vulnerable. I think the 21.5% cut to welfare recipients was exactly that type of mentality, that they shifted the blame to those who least affected the economy at all.

Mrs Simpson: I think those are the people who, if they aren't powerless — and I don't believe they are powerless, but many of them believe they are. Therefore, they're demoralized and they don't know the channels to take to put their issues forward to those in power. Sometimes they don't get satisfactory answers when they do call their MPPs. Sometimes situations aren't possible to remedy, but they've had one closed door after the other and they just give up. It's a very sad state of affairs.

The Chair: Mrs Simpson, our time has expired. I thank you on behalf of the committee for coming to the committee and making your representations to us.

The next presenter is Tilda DiMenna. Is she here?

1540

DANZIG ENTERPRISES

The Chair: We'll try Tim Fuerth, Danzig Enterprises Ltd. Thank you, Mr Fuerth, for cooperating with us with respect to the agenda.

Mr Tim Fuerth: Thank you, Mr Chairman. I have provided you with copies of a fairly lengthy and detailed brief. I would ask that rather than read through the brief, you listen to my comments so that hopefully you'll get a better understanding of the points we are making. We were fortunate enough to make a presentation to the legislative committee hearing the comments on the discussion paper last September, and we've also been fortunate enough to make a presentation on Bill 106, the Fair Municipal Finance Act. Really, what we've provided you with is the culmination of our presentations to those two committees.

I don't intend to dwell at length on rent control other than to make a few comments. We've heard various presenters indicating that there are more vulnerable people in society and those people don't have the incomes that would allow living in accommodation that is more expensive rather than less expensive. No one disputes that. I don't think anyone in this room would suggest that people shouldn't have access to quality rental accommodation no matter what their station in life and no matter what their income.

The key issue from our perspective is, who should pay for it? Should it be the landlord, who represents a small segment of the population, or should it be the population at large? If we go back a few years, there was much discussion and media attention given to shelter allowances. As I say, no one really disputes that there are people in society who can't afford quality rental accommodation. The issue is not so much that; the issue is who's going to pay for it.

When we look at what constitutes quality of rental accommodation — and I always hear the terminology "fair rent" — the thing that always strikes me, and it's inherent in Bill 96 as well, is that everyone seems to concentrate on, to me, what is perhaps an important issue but certainly

not the most significant issue. Everyone concentrates on rent: What is a fair rent? How much rent should someone have to pay? I don't think anyone in this room would dispute that \$100 a month for a quality apartment is not a fair rent. What always gets left out in the conversation is, how much does it cost to provide quality accommodation? Certainly we've seen through the non-profit housing sector, the co-op housing sector, with the inefficiencies we've seen in those projects, that the government does it a lot less efficiently than the private sector does.

But if we break it down and we look at what it costs to provide rental accommodation, and I'm talking about quality rental accommodation, a landlord has a number of bills that have to be paid. The first one is the property taxes, which run approximately 20%. Much of our presentation on Bill 106, the Fair Municipal Finance Act, concentrated on that particular aspect. That's 20% of every rent dollar that comes in goes to property taxes. Then we talk about utilities. The rule of thumb is that 20% to 25% of every rent dollar that's paid goes to pay for the utilities. Lastly, these buildings appear on the earth through construction, and invariably construction has to be financed, so there are mortgage payments. Those three are very significant components.

The suggestion from many advocacy groups is that the landlords are taking the rent money and sticking it in their pockets. No one is looking at what the underlying costs are of operating the building. We look at property taxes, utilities, mortgage payments, and add on top of that the many other costs: insurance, capital taxes, GST, which is a new additional burden for landlords, effective I believe in 1991, that never existed before. We have to look at what those underlying costs are, and only then can you determine whether a rent is fair. I think that's something that really has been lost by all the parties, all the advocacy groups. They ignore what it constitutes to provide quality accommodation.

I think everyone would agree that you get what you pay for in most anything in life, and rental accommodation is no different. If you want to pay \$100 a month — for many of the apartments we have, that doesn't even cover the property taxes, let alone the utilities, the mortgage, the insurance and so on down the line. If you want to pay \$100 a month, that's fine, but you're going to get \$100 worth of rental accommodation. There's just no escaping that reality.

Short of some system, being a shelter allowance system which will be paid directly to the landlord, we're always going to concentrate on this issue of the haves and the have-nots and no one is focusing on what it costs to provide quality rental accommodation. I think that's important. We all lose sight of the fact that the landlord has bills to pay. The city certainly doesn't allow a landlord to defer or minimize their property tax payments because they have low-income tenants. The mortgage companies certainly don't allow you to defer your mortgage payments or reduce your interest rate because you have low-income tenants. The utilities, whether it be Union Gas or hydro, sure as heck don't allow you to run up too much of a

balance, and if you do run up a balance they sure sting you with the penalties. People have to remember that most of that rent dollar is going somewhere.

When you break it all down, and I think this is where the whole issue of rents and fair rents comes to, when landlords pay all those obligations that have to be paid, what's left over I call the table scraps. What's left over is for maintenance. I think it's fair to say that if the rents are stabilized or decreasing at a time these costs are increasing, which I think everyone agrees they are, those table scraps start to shrink and shrink and shrink. You see it throughout any city if you go and walk through these rental apartments, that they're deteriorating. Some suggest that the landlords are sticking the money in their pockets. The reality is that the rental levels just don't support adequately maintaining these buildings. I know we'll have a heated discussion on that comment, but I believe it to be an accurate one.

We're in a crisis in Ontario with rental housing. In my brief I've repeated a quote from CMHC from October 1995, where they indicated that since 1984, 80% of the apartment rental supply and 100% of row housing has been non-profit or co-op. I think we all know that the non-profit is going nowhere in terms of new construction. We've also seen CMHC cleaning up their portfolio with co-op housing, allowing many of them now to go into bankruptcy that can't reasonably and feasibly support themselves. That's economic reality, and I think we're starting to realize that we just can't avoid economic reality.

In summary, in terms of our overall comments on the bill — and we've certainly been more than willing to provide our comments — we view the bill as being detrimental to our business. I know it comes as a bit of a shock that we, being landlords, would make that comment. But our view certainly is that Bill 96, from our business perspective in terms of constructing new units, properly maintaining our buildings, will be worse than the Rent Control Act. It's not very often you hear a landlord say that he favours the Rent Control Act. We point out in our brief that it's the worse of two evils, because we view Bill 96 as being clearly worse than the Rent Control Act, which I'm sure you'll find surprising.

One of the main reasons for that position is that through the process of vacancy decontrol-recontrol we will lose our maximum rents. Over the years we've been conscientious landlords. We've invested significant amounts in our properties and we have maximum rents that are in excess of the market rents. We will lose that benefit, notwithstanding that we made those investments in our properties in good faith.

I've also set out a subheading in my report that sensationalism abounds. We hear all kinds of outrageous comments: that rents will increase 20% to 30%; we hear that people are going to be on the street. In fact I heard a presenter indicate this morning that she had to cut the preparation short for her presentation because she got word that 80 people were being thrown out on the street from one of the rental accommodations in the city. What she didn't tell

you was that it was actually a care home and all those people who were under medical care had already been placed in other institutions in the city. You can see how there's the sensationalism, that people start to be very fearful. The people who are going to be frightened the most are these less-advantaged people, people whom these same advocates purport to represent.

We certainly challenge the advocacy groups to provide empirical, factual, documented evidence, where decontrol has existed, where rents have increased. The fact is that they won't be able to. They know that and that's why they won't. There is no truth. If you look at the brief I've submitted, I've attached yesterday's advertisements in the Windsor Star and had them highlighted in terms of the sheer number of rental apartments available right now in the city of Windsor. You can look at the number of apartments where there's one month's free rent, no last month's rent deposit required; there are move-in bonuses. The mere suggestion that rents are going to go up 20% to 30% in a climate where a majority of the units in the city of Windsor are being rented now for less than their statutory maximum rent is baloney. If the landlords could increase their rent, why would the passage of Bill 96 make it all of a sudden easier, when they can't do it now because market conditions forced landlords to charge market rents?

1550

We keep hearing about the elimination of rent control. There is no elimination of rent control. It's a myth. What we're talking about here is rent control by another name. It's decontrol-recontrol. Our concern from a business perspective is that very clearly we face a negative bias under this system in that tenants will lock into low rents during times of recession, during down times, and they'll merely be able to stay in those units at recession-level-based rents — inflation-adjusted, of course — for the foreseeable future. The reality in the province of Ontario is that allowing tenants to lock in at those recession-level rents and stay in the units will in the end result in poorly maintained, much poorer than we see today, rental properties, because those cash-flow streams will diminish and when the good times come, the landlord won't be able to charge those extra rents to fund those necessary capital projects.

When we look at the act itself — I can tell how topsy-turvy this issue is, because I notice that in my brief three of the pages are upside down. I don't know if anybody noticed that. We've heard a lot about the Human Rights Commission and income criteria. The plain fact is that the permission or the allowing of landlords to use income criteria in selecting tenants, among many other factors, including landlord references, employment references and the like, is the status quo today. The suggestion that all of a sudden landlords are getting this new right to the detriment of tenants is pure garbage. The reality is that right now that's the practice in Ontario, the accepted practice. The tenants aren't being prejudiced by the existing practice by containing it in the Rent Control Act.

As I said, when we talk about those disadvantaged groups in society, the issue is not so much whether they

should be entitled to quality accommodation; it's who should pay for it. I've dealt enough with that particular issue.

I've referred to property tax reform as being a significant factor for us. I mentioned that roughly 20% of every rent dollar a landlord receives goes to pay the property taxes. It doesn't go in his pocket, like most tenants think it does; it goes to pay the property taxes, among other things.

Bill 106, which is certainly an act in the right direction, because the regulations weren't available at the time the bill received third reading and royal assent, in our view doesn't go far enough. The premise with Bill 106, the Fair Municipal Finance Act, is that in Ontario the tax burden should be shared equally by property owners based on the relative values of their properties.

Right now in Windsor, under market value assessment, with a 1984 base year, most people seem to not really care that an apartment worth \$30,000 pays twice the property taxes, and in effect it's the tenant paying those property taxes, than a house of the same value. I don't know how anyone can argue the fairness in that sort of system.

The hope was that with the Fair Municipal Finance Act that would be a change. The word we're hearing from the Ministry of Finance is that the tax ratio for multiresidential property versus residential property will be capped at 1.8%. I have some difficulty accepting that if I'm in an apartment worth \$100,000 and the guy down the street has a house worth \$100,000, I should be paying double the taxes of the guy down the street, but that's precisely — well, not quite double; it will be 180% of the gentleman down the street in the house.

That seems to me to be abundantly unfair. In fact, I've sent letters to some of the presenters we've had today, including Ms McDermott from Legal Assistance of Windsor, with a view to, in conjunction with our efforts, rapidly organizing tenant groups in the city of Windsor to make the local council intimately aware that tenants are not going to accept being stiffed. There's no other way to put it. They're being stiffed.

We've also been on record with our tenants, both in writing and verbally, that any tax reductions we see we're passing on to the tenants. We're not expecting a tax kick-back to stick in our pocket. We want to give it back to the tenants, because it will make the rents more affordable and tenants will be more responsible.

As a landlord, all I want is to rent an apartment to someone who's going to pay the rent and is going to look after the rental premises. When I have tenants who don't pay the rent, that causes me problems, because I still have those property taxes, I still have those mortgages, I still have the insurance and I still have the utilities, among all the other costs of running accommodation, kick in.

I understand that it's beyond the scope of this committee, but that is an area where we would like to see some movement, if not an immediate equalization with the residential property class, certainly over a period of transition, say, five years hopefully, maybe even 10 years, that the tax ratio be forced to be drawn down by municipalities.

I think it's fair to say that with all the restructuring going on, there's not a municipality that's not going to have their tax ratio at the 180% of residential. They have so much uncertainty now, they'd be foolish to even promise that it would be lower. That's something we're very active in. To put it into plain terms, if 10% of every rent dollar is property taxes and you can see a 50% reduction in rent — now that's rounding, but that's what it would take to bring the taxes into line. Let's assume that 10% of that 50% results in an overall mill rate increase, so 40% reduction. If you take an average rent of \$700, that's a lot of money. That's 10% less a little bit, let's say 8%. So that's about \$50 a month right off the top that it knocks off a monthly rent bill.

That's something that really doesn't deal with this bill, but we've been very vocal with the tenant advocacy groups that if there's a way they want to help themselves, it's not by criticizing the landlords that they're slums. They should do it in a way that they can actually help themselves and see immediate dividends by pressuring council in an election year to make sure their voice isn't left out.

We have in our presentation a number of comments in terms of the Ontario Rental Housing Tribunal. I think it's fair to say that the judges and the deputy judges are licking their chops waiting for the day when all these matters are taken out of the court system and put in the tribunal.

I don't want to elaborate at a great deal of length in terms of the tribunal. There are a number of procedural concerns we have and concerns with the drafting of the regulation, ensuring things such as that the rents get paid into court, that the tribunal doesn't have the ability to indefinitely postpone eviction, that the tribunal will have to hear an application within a predetermined time. Right now, there is no time frame within which an application would have to be heard. Really, the intention of the tribunal is to ensure that it operates more efficiently and on a more timely basis than the court system. We have some concerns about whether that's going to happen. We're prepared to, in good faith, work with the system and hope it does work, but we have some legitimate concerns about whether it will.

There are a number of other comments I had on the Landlord and Tenant Act. Again, I don't want to deal at length in terms of the specific comments. In my submission, we liken this whole —

The Chair: If I could interrupt just for one second, unfortunately, you have two minutes left.

Mr Fuerth: Okay. I will make two quick comments. In our submission we have a heading where we say, "If it's broke, why break it again?" In our view, Bill 96 is doing exactly that and the analogy we use is a car that has rims on it but no tires, which is the current rent control system. All we're doing under Bill 96 is putting tires on the rims, but not putting any air in it. It'll still work, but it sure won't work the way it's designed and intended and the way people want it to.

I would like to make one final comment in terms of the last page of my submission. I have had discussions with

Mr Duncan and I suspect there may be some concern in terms of the statement I make on the last page, that we have been waiting for, not only from the Liberal Party but also the NDP, position statements rivalling these bills. All we're saying is, let's everybody put our best ideas forward and let's make the best possible legislation we can. We encourage all parties to do so. Mr Duncan made it very clear to me when I met with him last, which was a couple of months ago, that after these hearings he would be fairly quickly tabling their position, their recommendations.

The Chair: Mr Fuerth, thank you for your presentation this afternoon. You certainly have an extensive brief. I know members of the committee will take the time to read it. Thank you again for coming.

Mr Len Wood: On a point of order, Mr Chair: Just to clarify something, the NDP position is clear that there's no reason for Bill 96, as you made it in your presentation.

The Chair: Mr Wood, as you know, that's not a point of order.

Mr Len Wood: He asked a question and I wanted to make sure it was on the record.

The Chair: The final presentation is Sun Parlour Income Property Association, Tilda DiMenna, director. She was scheduled for 4:05. We will recess until 4:05 and see what happens then.

The committee recessed from 1600 to 1607.

SUN PARLOUR INCOME PROPERTY ASSOCIATION

The Chair: Ladies and gentlemen, members of the committee, if I could ask you to return to the table. I understand Ms DiMenna, Sun Parlour Income Property Association, is the next presenter. We have two people, and I trust you will introduce yourselves. You have the right to have the last word.

Mr Tim Fuerth: Obviously I look somewhat familiar.

The Chair: I'd swear I saw you a few minutes ago. That's correct.

Mr Fuerth: Ms DiMenna has asked that I sit here silently, really to be a resource. I don't intend to be involved in the presentation itself, but certainly in terms of any questions that she feels uncomfortable with, I would be happy to respond.

The Chair: Ms DiMenna, it is your time and you can bring whoever you wish to the table.

Ms Tilda DiMenna: Thank you very much. I hope you don't mind if I'm just going to be reading this. I didn't have a lot of time to prepare, so I hope that's okay.

On behalf of the Sun Parlour Income Property Association and myself, I thank you for giving me, as well as others here today, a chance to express opinions concerning Bill 96, the Tenant Protection Act.

In brief, the Sun Parlour Income Property Association is an active group composed of landlords and property managers from Windsor and the surrounding region. Our organization has held bimonthly meetings for over 25 years. We help keep our members informed on current and possible future rental issues.

I am employed as a property manager for a company of landlords in Leamington, which is approximately 40 miles east of Windsor — I hit every red light coming here today — and I've been employed with them for 20 years. I have been and still am a tenant, so I not only walk in tenant's shoes, but also have to walk in landlord's shoes many times. For this reason, and because I consider myself an open-minded person, I feel I have valid comments.

The following is a typical scenario.

Through the years, I have seen the company I work for grow from renting six units to over 90 units today. Their plan to build started in 1970 and they continued to expand until 1977.

Plans to build future units were put on hold when the Liberal government introduced the initial Rent Control Act. This company has the means to construct more units, but will not because of the uncertainty of government regulations. These landlords are fairminded business people who saw a need for good rental housing. Good economics, they thought: "Lack of supply and increased demand equals a profit opportunity. Offer and maintain that good supply and profits will see us through retirement." Isn't this what business is all about?

Rental housing is a business just as are retail stores, banks, car dealerships etc. All these businesses require reasonable credit references when sales such as furniture or car, or loans, are made on credit. If the person does not have any credit references, it stands to reason that the business owner would want to know this person's earnings to fairly assess their ability to pay for what they want. Under these circumstances, a guarantor may be required. Does this not sound like commonsense business practice? All businesses have to be subject to regulation to preserve law and order, but all within reasonable terms.

It seems as though landlords have been an unfortunate target for many years. Not all landlords are the same, but neither are all retail stores, banks or car dealerships. Consumers have the right of choice to deal with whom they prefer, but this right is abused when they cannot pay for their choice. Some prospective tenants and the Human Rights Commission call this discrimination. I call it proper business procedure. In the long run, these save a lot of money, time and evictions.

Why? Let's say a landlord feels obligated to rent to a tenant whom they feel may be unable to pay the rent. In most cases, I feel the landlord is experienced in renting and/or obviously wants do the best they can to rent their apartment as opposed to keeping it vacant. If after a while the tenant cannot pay the rent, then the process of probable loss of money, time and eviction will result. This could ultimately affect the tenant as well as the landlord.

I think landlords truly do their best to rent to anyone who is responsible and reliable, but they must also have the means to pay. It is reasonable to say that landlords cannot operate on charity. They are just trying to make a living from their investments. If we all work together, government and public, surely we can come to some reasonable resolution.

The following may be some considerations to help generate new housing and maintain the existing. This is not in any particular order; it's just in point form.

(1) Improve controls to achieve new supply through obvious cost factors such as property tax differential.

(2) Allow landlords to negotiate rent and repairs amicably with tenants.

(3) Allow landlords to receive a fair market rate for their rental units.

(4) Improve the time delay to obtain hearings and evictions of tenants who are either in rent arrears, dangerous to fellow tenants, carrying on unlawful acts in or about the rental unit or disrupting the normal peace and enjoyment of fellow tenants or the landlord.

(5) Support an amendment to set the interest rate paid on the last month's rent at a rate annually at the same figure as the guideline rate.

(6) Ensure present landlords that in creating new housing or new landlords, they will not be neglected in the process.

I hope my comments will be of value to you and that you will consider them in your final evaluations.

The Chair: Thank you very much. We have time for questions, and we will start with the Liberal caucus.

Mr Duncan: Thank you for your presentation. It certainly is valuable. I just did want to point out, as much as I would like to be able to take credit as a Liberal for the original introduction of rent controls, they were in fact introduced by the Progressive Conservative government of William Davis in 1975 and then further revamped in 1979 under the Residential Tenancies Act. That's where the tenancy commission was originally established.

I did want to touch base on a couple of points that have been raised by landlord groups throughout the hearings. Mr Fuerth raised it earlier, and I'd like your view on the establishment of a tribunal versus the court process. I don't know if you have had a chance to review the government's proposals. We think that we support the general direction the government is going in that area. It's the view of the official opposition that the existing ways of rent dispute resolution are cumbersome and not particularly effective either for tenants or landlords.

I wonder if you have any comments about the government's proposals, where you think they are going in the right direction and where you think there may be room for changes or improvement, and it's okay if Mr Fuerth wants to comment on that as well. I'd like to hear your views on that.

Ms DiMenna: My comments are brief on that. I prefer the tribunal as opposed to the court process because the court process is time-consuming and also expensive. Hopefully both tenant and landlord can do this a lot quicker through a tribunal.

Mr Fuerth: I have many, many comments on the tribunal. Certainly we support the direction, as well, that's being taken and the view that it will be efficient. I mentioned in my presentation we have some grave concerns as to whether it will be as efficient as everyone hopes it will be.

The regulations under which the tribunal will operate are of paramount concern to us in terms of requiring things like payment of rent moneys into court, which is already enshrined in the existing Landlord and Tenant Act, requirements like avoiding, in effect indefinitely, evicting tenants.

Certainly there should be inserted into the regulations, if not the bill, a merits-of-justice provision which would in effect obligate the tribunal members to operate under the merits of justice, as the current system does right now. It's not a change; it's just reaffirming the existing status of the system.

Those are a few very brief comments. With the huge hike in fees for the court system that we're going to experience in a few weeks, on September 1, I assume there will be some user fees for the tribunal. We're still flying blind in terms of what those fees will be. Obviously landlords and tenants will have some interest in ensuring that those fees are reasonable and fair.

Mr Len Wood: I see Mr Duncan has corrected that. That was Bill Davis, with the support of the NDP opposition at that time in a minority government, who brought in the first rent control. Stephen Lewis was the official opposition. There was an understanding to bring it in 20 years ago.

We've had presentations saying that what is happening right now with Bill 96 is going in the wrong direction. All the presentations to date are saying that it's not going to protect landlords, it's not going to protect tenants, that it's heading in the wrong direction. One of the presentations that was made this afternoon was saying they would rather live with the rent controls that were in place from 1990 to 1995 than this piece of legislation.

I know in your presentation you're saying you feel that there can be some amendments made and property taxes and different things that will help, but are there any things in addition to that which you feel should be done with Bill 96 to make it smooth so that it's not going to be a hardship on the one third of our society who are tenants in the province?

Mr Fuerth: I think the reality is that it remains yet to be seen that the passage of Bill 96 will create a hardship. Certainly my view is quite the opposite, that it will have a downward pressure on rental amounts and escalating lack of maintenance due to that table scrap money that is left over after you have paid the bills. I think that's inevitable.

Certainly in terms of some of the changes, not necessarily with respect to the bill, and some of them beyond the scope of this committee, I have sent letters to the Minister of Finance dealing with amendments such as the elimination of or at least a holiday for capital tax on mortgages for rental properties. That's something that I think is abundantly fair. If someone has a rental property that is not owned through a corporation — by definition, this is a capital business; you have capital assets — that mortgage, all of a sudden, between the large corporation tax federally and the Ontario capital tax, you're really accruing about another 0.6% tax rate, which to me seems abun-

dantly unfair. That's a tax rate that someone owning a property through a trust or individually doesn't face.

The Chair: That's it, unless very briefly.

1620

Mr Len Wood: This will just be a comment. This is the fourth time in 20 years that rent control has been tinkered with in one form or another: by the Conservative government, then the Liberal government, the NDP and now the Conservative government again. In another two years it will probably be tinkered with again if they go too far to the right, whichever government it is. It will probably be NDP, but whatever; it will be tinkered with again. I'll leave it at that.

Mr Fuerth: There are a couple of points I'd like to make quickly. I believe the Liberals actually opposed the Rent Control Act that was passed by your party in 1992 so, passing blame, everybody is changing positions. The reality is, what we're all after here is making sure that there is quality accommodation no matter which party passes the appropriate legislation. That's why I encourage all the parties to participate equally and in a conciliatory fashion to make sure it happens.

I have had some discussions with various members in the past, and certainly one of the things that I see, if you stand back, when we talk about rent controls protecting people is that we have segments of the province where we face 9%, 10%, 12% vacancy rates. Are controls really doing anything? I have wondered many times whether it wouldn't be much more efficient to impose some sort of control regime where in fact those controls are warranted. CMHC has indicated that an equilibrium market situation is 2% to 3%. Why not look at a system where we have controls that will be in place in those markets? In markets where it's 7%, what are we accomplishing? Probably nothing.

Mr Gilchrist: Thank you, Ms DiMenna and Mr Fuerth, for your presentations. Perhaps Mr Wood should take it that the best lesson we could take from the number of iterations that have gone through is that fundamentally rent controls are a flawed concept and that this is perhaps the best of a bad situation that we're bringing forward here now.

I appreciate your comments, both of you, that this bill continues to have issues that will provide challenges to landlords. I appreciate very much that you have painted a picture driven by facts, not rhetoric. There seems to have been a garage sale on crystal balls across this province. People have said: "I know this will happen. I absolutely guarantee that rents will go up. I guarantee there will be no construction." Then we have people like yourselves who actually are putting their money into these projects, are creating housing, who have a very different view. In Ottawa a few days ago, we had Minto Holdings, who indicated that they are going to put an additional \$25 million over and above what they would have spent into housing renovation and construction in the Ottawa market precisely as a result of this bill.

Let me just ask you one very quick question on the property tax issue. We have heard from the other side that

somehow we should hide behind the smoke and mirrors, that the disentanglement or the normal cost increases municipalities face should somehow be used as the excuse to perpetuate the incredible imbalance between the taxation on apartment owners and homeowners.

The bottom line is it doesn't matter what happens to the total cost to the municipality; they will be raising everyone's taxes, or lowering in the case of communities like Muskoka that on January 1 will be going down, and many of the other counties of this province. The fact of the matter is that nobody is talking about levelling the playing field.

I guess I would ask you what you think the impact would be on the average apartment that you represent if that at least two-to-one inequity was eliminated and whether you believe that would be the biggest possible step forward in terms of creating affordable housing, immediately changing the cost formula for those at low income levels.

Ms DiMenna: I think that would be a big step forward, yes.

Mr Gilchrist: Would you hazard a guess as to what percentage if the municipalities were being fair in their treatment?

Ms DiMenna: No. I haven't given that enough consideration, but I'm sure it would be substantial. It really depends what — you said two to one.

Mr Gilchrist: Do you disagree with Mr Fuerth's percentage that it's about 20% of the landlord's cost of providing accommodation?

Mr Fuerth: That would be very accurate, and I'll premise that by saying I mentioned 20% of the rents collected.

Mr Gilchrist: It could be higher than that?

Mr Fuerth: Yes.

Mr Gilchrist: Let me just tell you that in Toronto it's 6.2 times greater. The property tax charged on rental accommodations is 6.2 times greater than the property tax charged on the equivalent square footage of a single-family home, and not one councillor, even though the mayor ran three years ago guaranteeing that she would end that inequity, nobody has done it. Nobody has done it in Windsor and nobody has done it anywhere else, and they can't pass the buck back to us, because property tax is a municipal issue. I hope you go forward this fall and challenge all the candidates for office to restore that fairness to tenants here in Essex county.

Mr Fuerth: Certainly the inequity in property taxation is not a new concept. I also made a presentation to the Ontario Fair Tax Commission, I guess it's now four years ago, and that commission actually concluded precisely the same thing. Precisely the same thing was concluded in the Golden report; there is a litany of reports that concluded precisely the same thing. The problem is that there hasn't been the political will. The problem is the tenants haven't been made aware that they're getting stiffed, absolutely no question.

When the bill comes in and if the rents are equalized, there will not be a 50% reduction — there will be some

cannibalization because all the mill rates will be bumped up across the board — but there will be a dramatic reduction, and that will have a significant impact on the rents, and we've certainly taken the position those tenants will receive that reduction.

There are winners and losers. Obviously the housing sector will be certainly a loser, because all of a sudden these people out buying houses because they can go buy a house for \$90,000 and pay about the same as their rent are going to be in a better position being a tenant paying rent

than out buying these houses. So there will be winners and losers.

Mr Gilchrist: Thank you both.

The Chair: Thank you, Ms DiMenna and Mr Fuerth, for your presentation.

That concludes the public hearings in Windsor. We will be reconvening in Toronto tomorrow for the final day of public hearings. This committee is recessed until tomorrow morning in Toronto at 10 o'clock.

The committee adjourned at 1627.

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Mr Karl Cunningham, senior policy adviser, Ministry of Housing

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Mr Tom Prins

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Ms Susan Swift, research officer,
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of Debates
(Hansard)**

Thursday 14 August 1997

**Journal
des débats
(Hansard)**

Jeudi 14 août 1997

**Standing committee on
general government**

Tenant Protection Act, 1996

**Comité permanent des
affaires gouvernementales**Loi de 1996 sur
la protection des locataires

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 14 August 1997

Jeudi 14 août 1997

The committee met at 1001 in room 151.

TENANT PROTECTION ACT, 1996

LOI DE 1996 SUR LA PROTECTION
DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies / Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

The Chair (Mr David Tilson): Ladies and gentlemen, I think we'll call the meeting to order. This is the standing committee on general government and this is the final day of public hearings of the committee. We have been traveling around the province and we have returned to Toronto for the final day. We are reviewing Bill 96, which is the Tenant Protection Act, 1996.

We have a full day so we will start without further ado. The first presenters are Robert P. Hann and Debbie Clarke, who are from Valiant Property Management.

Mr Dwight Duncan (Windsor-Walkerville): On a point of order, Mr Chair: I don't believe a quorum is present. The government has an obligation to keep quorum.

The Chair: We will adjourn for 10 minutes.

The committee recessed from 1002 to 1011.

VALIANT PROPERTY MANAGEMENT

The Chair: I see a quorum. Good morning, Mr Hann and Ms Clarke. You may proceed.

Mr Robert Hann: Mr Chairman and members of the committee, government staff, ladies and gentlemen, thank you for the chance to explain our position on Bill 96. I just want to mention to you that Debbie Clarke is my daughter. She is the fourth generation in our family business.

First, a brief history to qualify ourselves.

My family have been builders and developers in the Toronto-Oshawa-Peterborough area since 1922. This is our 75th anniversary. We built rental apartments from 1957 to 1972 — when rent control was threatened — every size from 15 suites to 245 suites. We own and manage about 1,700 suites. I have land zoned for rental apartments in Oshawa but will not be building them unless major changes are made to Bill 96 and other provincial laws.

The most onerous deterrent is the high assessment for real estate taxes compared to single-family housing. Rental apartments are assessed at three or four times individually owned housing. The changes in the new Assessment Act will not correct this because municipal politicians will not be able to resist the demands to keep taxes low for constituents who own their own homes. The local politicians will set rates on the apartment-building class much higher to buy votes.

Further, if fairness prevailed, the taxes on apartments should be far less than on single-family homes because apartments don't require as much municipal infrastructure: shorter roads to maintain and plow, more concentrated use of sewer and water lines and so forth.

If a single, semi, condo or rental apartment has the same market value, you should not create different classes. They are all residential and they should all pay the same ratio of taxes to market value. The only exception should be for services not rendered. For instance, if garbage is not picked up by the municipality, there should be an allowance for that.

The taxes on rental apartments are even higher per square foot than on shopping centres.

Another major reason that I won't be building rental apartments is that I cannot compete against the rent-controlled apartments with today's construction costs and development levies. When the province was building apartments, the shortfall was about \$1,200 to \$1,500 per month per suite. As bad as that is, it must have skyrocketed, since the shallowly subsidized suites have suffered extremely high vacancies. Some forensic accounting on a representative number of so-called non-profit apartments will no doubt show some horror stories of mismanagement.

Mr Leach has said the new Development Charges Act, DCA, will promote rental construction. I think not. As far as I am aware, the DCA does not correct the following unfairness. In Oshawa, the total levy for a two-bedroom apartment is \$10,074, which is \$11.85 per square foot on an average 850-square-foot, two-bedroom suite. Compare that levy to houses we are building now in Oshawa at our Sundance West subdivision. Bungalows range in size from 1,500 to 1,700 square feet and two storeys range in size from 1,800 to 2,400 square feet. By the way, all these figures do not include the garage. On average they are therefore 1,950 square feet, with a total levy of \$13,595, or \$6.97 per square foot. If that is not bad enough, also

remember again that because apartments are concentrated with fewer service connections, less road frontage to build etc, the city or region saves a lot of money on apartment buildings being constructed.

The capital cost allowance pass-through is a definite improvement over the draconian, counterproductive, retro-active terms of Bill 4. However, the capital cost allowance should make provision for the fact that most improvements must be done and paid for from May to October during the building season, whereas the income from that allowance will take several months to get it approved by the rent control staff and three months' notice then over the next 12-month period to finally recover the full 4% of the rental income. By that time interest has increased the debt and there will be another building season and capital work that must be done. The treadmill will continue to get steeper as buildings age.

All of our buildings have been looked after. We have spent about 10% of gross rents per year on maintenance, replacement and refurbishing, but now that our buildings have reached 30 to 40 years of age, more major work must be done. As an aside, I'm really worried about our buildings becoming slums.

Another problem with the 4% capital cost pass-through that will prevail is that now the construction industry is getting busier, the price of work is going to escalate. So less work can be done and more work will be delayed to await the capital cost allowance to catch up. Also, we now have record low interest costs, and I don't believe they will stay this low forever. When you add on the higher interest costs, this ratchets down the quantity of work that can be done. I believe the capital cost allowance should be raised to an increase of 5% from 4%. This, then, would help pay back the principle, the higher interest and construction costs that are sure to come. It is fair to tenants because it gives them a better apartment to live in.

The vast majority of our residents can afford to pay the economic rent that is required to maintain the buildings they live in. Many spend time in Florida, very few are driving clunkers and many hate rent control because the 24 years of rent control have compounded slight inequities into situations where legal rents are cheaper in a three-bedroom apartment than in a one-bedroom apartment across the hall in the same building. There is no method of equalizing rents, so the suites already underpriced will have virtually no turnover and this unfairness will be worsened. The tenant paying market value will be subsidizing the tenant paying a low rent because there will be less refurbishing done because of the flock of underpriced units.

Let me give you an example of how out of line and Byzantine rents have become. Our rent includes heating, electrical, water, sewer consumption, parking, keeping the public areas clean, elevators maintained, fire insurance on the building, landscaping, snow removal, boiler repairs, security, fire retrofit, ad infinitum. We have numerous two-bedroom apartments that rent for about the price of a case of beer per week per four occupants.

Further, there is a great deal of verbiage by tenant advocates about rents skyrocketing. They never back up their "sky is falling" scenario with any real-world facts and figures. They ignore dozens of studies by authors of all the political spectrum which show that rent decontrol does not cause the horrendous problems.

I do not envy your task of trying to reach a fair, balanced rental apartment regime, but I honestly believe that the best form of rent control is that achieved by the open market. Prior to rent control we scrambled to get our suites rented. We offered moving allowances, one month's free rent on a 24-month lease, a gift basket of champagne, candles and glasses, everything to entice a tenant to sign. With the best of intentions, rent control has skewed the market so badly it is like a drug of dependency that is in short supply.

If you get rid of the mandated rent control, you attract business people who create jobs in all spheres of endeavour. The spinoff is extraordinary. Yes, there will be times when there are shortages of apartments, but this will correct itself as builders identify a need and leap into it.

When we started building apartments, we drove down the rent on the older existing buildings that were without the fancy lobby, pool, saunas and games rooms that we put in. Poorer people were advantaged because those who could afford these amenities went into the newer buildings and fewer people were chasing the cheaper suites. With rent control, people stay put longer even though most gradually became more affluent and no longer should be entitled to the low rents.

1020

At the risk of immodesty, may I suggest to you that someone like myself with a proven track record of being a producer of apartment homes should be listened to, more so than someone who professes to have the poor tenants' best interests at heart. They haven't laid one block, wheeled one cubic foot of concrete, taken one single positive action to help produce shelter for someone. I don't know why we should give them the time of day, really.

In summary, the following are my points:

New rental apartment construction will not take place until market value assessment is equalized for all residential premises. Levies and all other development costs the province can control need to be made fair between all forms of housing. The rent increase allowed for capital costs must be more in line with what real world costs are so there is an incentive to the landlord. Serious efforts should be given to decontrol rents on existing tenants who cannot prove need, as well as when a suite becomes vacant. There should be an equalization factor created so that a small percentage increase is allowed in addition to the allowable figure set each August.

In closing, I again thank you and wish you well in making difficult decisions. I will be glad to try to answer any questions you might have, failing which I will not take any more of your time.

The Chair: Thank you, Mr Hann. We do have time for questions.

Mr Monte Kwinter (Wilson Heights): Thank you very much, Mr Hann. I have a question for you. I'd just like your comment on it. I understand your position where you feel there should be equalization on all residential properties, but what I don't agree with is that there isn't equity now, because the person who lives in their own condo or lives in their own house is paying all of their expenses, their taxes and everything else, on after-tax dollars. You, as a business, are paying all of your expenses at tax-deductible dollars.

Unless you equalize that as they do in the United States, where they allow mortgage payments and things like that to be deducted from your taxes, there isn't equity in use but there is inequity in how you pay for it. Do you have any comment on that?

Mr Hann: First of all, I don't know what you're talking about in the way of equalizing. Are you talking about equalizing real estate assessment?

Mr Kwinter: You're saying that market value assessment is equalized for all residential premises, which would mean that a residence is a residence. According to you, it doesn't matter whether it's rental, it doesn't matter whether it's a condo, it doesn't matter whether it's sole ownership. What I'm saying is that the person who lives in their house —

Mr Hann: Mr Kwinter, what you're failing to make the differentiation on is that it is not me who is paying those taxes. It's not me. I don't pay the taxes. The tenant pays the taxes, and the tenant who pays the taxes is the person who is the least capable and has the least resources. Now, you look at me and say: "Mr Landlord, you've got a nice suit on and you drive a nice car and everything. You should be paying more money because you're a businessman." What I'm saying to you is, all I am is a tax collector. I'm just another form of a tax collector, and so what's happening in the scenario you said is that you are jumping on the poorest person in all of society that is able to pay. That's the problem.

Mr Kwinter: I understand, but the point I'm making is that tax is only one component of the expense. You've got your mortgage payments, which you deduct, which a homeowner doesn't. You have your heating, you have all of your maintenance, all of those things which make up the rental that the homeowner still has but has to pay for after taxes.

Mr Hann: I don't pay any of those. It's the tenants who pay them.

Mrs Marion Boyd (London Centre): I'm rather curious and I just need some clarification. Do I understand from what you're saying in the last couple of pages that you believe there should be a means test for everyone who's in a rental apartment to determine where they could live?

Mr Hann: No. I think there are definitely people who do need help. There is just no doubt in my mind that we have some residents who need help. So if they identify themselves — it can be as circumspect as another situation I can tell you about to prove that it will work. If Mrs Smith is having a problem and she can prove that, "Look,

I'm in trouble. I need a lower rent," I, as one landlord, would not be against a certain number of people having a lower-priced apartment.

Our family were poor at one time too, and we were helped back in the pogeys days, so I've seen the other side as well as being on the winning side, if you want to pose it as a game. I think some people should be helped, but I don't think people who are going to Florida for six months of the winter should have a subsidized suite, which is what they're having right now. They're having low rent because it's available to everybody. The person in need should be the one that's helped, but not the people who don't need it.

Mrs Boyd: I understand that, and if they're on a social program, there are mechanisms to determine whether or not someone is eligible. But you seem to be saying that in lower-cost housing, when people are not directly on any form of assistance, they oughtn't to be in that lower-cost housing if they have enough money not to be. Is that what you're telling me? I'm just trying to be clear.

Mr Hann: Yes. What I'm saying is, it should be for the needy, not the greedy. The subsidized housing should be for the needy, not the greedy.

Mrs Boyd: You're not talking about cheaper suites in rental market apartments; you're talking strictly about subsidized housing. Because as your brief reads, you seem to be talking about cheaper suites in the general market rental.

Mr Hann: I think it should be done in the same way that we have a very successful program that goes on. There is very rarely ever any discussion about it in the papers or anything, but we found it's a very successful program. It's good for us as landlords as well as for the tenants, and that is the deal we have on a couple of buildings with OHC.

What happens on OHC is, when they get somebody who needs help — they have identified that person, because we can't identify them, okay? We've no way to find them. So we have a deal with OHC. OHC call us and the property manager says, "Okay, I have Mr and Mrs Jones who need a two-bedroom suite," and we look at their record. If their record seems to be okay, fine, we'll let them move in. We can turn down up to two and then we have to take the third one.

Mrs Boyd: On the rent supplement.

Mr Hann: Yes, on the rent supplement. Then first of all, the portion that this needy tenant pays, they pay direct, and OHC pays the other portion direct. It's worked out now for — I don't know — 15 or 20 years and it's been an excellent system. We don't want too many people on high need in one building because we don't want a situation arising where you can easily identify who is on need. We want them to come in and enter into the apartment just like any other tenant who's paying the full shot themselves.

Mr Steve Gilchrist (Scarborough East): Mr Hann, it's good to see you again, and thank you for your presentation. I think you've come right to the heart of the matter, that people like yourself, who are in the business, who are actually putting their money on the line, are the ones to

whom I think we should be paying the greatest heed, because it is you who not only were building and renovating but who stopped, generically, as a group. To anyone who looks at the statistics, there is an absolute correlation between the implementation of rent controls and the end of construction of private sector apartments in the province of Ontario.

Mr Hann: Exactly.

Mr Gilchrist: It went from 26,000 units a year to 1,200 last year: 20 new apartments in all of Metro Toronto; 37 the year before. But those who would profess to have a social conscience think that's somehow nirvana for the 50,000 people who moved to this city last year. I don't know where they think they're going to be housed, but clearly the private sector has walked away because of government intervention.

I'd like to explore further the point you've raised about property tax inequities. Again, there are a lot of people who do a good job of professing to care about affordable housing in this province, but when given the tools, when given the opportunities to do something about it, they don't do a damn thing, quite frankly.

We've had three Toronto councillors appear before us here so far, and the current mayor of Toronto — you may or may not know this, and I'd like your comment — in 1994 when she was running said that she found "outrageous" the differential in the taxes and that she would move as soon as she was elected to remedy that inequity.

Well, Mr Hann, in downtown Toronto today the variance is as great as 6.2 times as much being paid by a tenant as by a homeowner with equal square footage. What do you think would happen to the affordability of apartments in this province if municipalities recognized that inequity, did what they should be doing and balanced the tax load so that tenants went down to the taxes that are being paid by homeowners in this province?

1030

Mr Hann: I think it would help considerably the chances of rental apartments being built, because it's the second-highest cost we have. The only higher cost is the mortgage financing, interest on the money, and the next-highest cost is the municipal or real estate taxes. If they went down to a realistic figure, I think that would help increase considerably the chances of apartments being built.

Mr Gilchrist: We have another election this fall. Maybe they'll take a different tack when they have the next chance.

Mr Hann: I won't take too much longer because my time is just about up —

The Chair: Unfortunately, we're out of time, so very briefly.

Mr Hann: I'm really disappointed that this government has drawn up the Assessment Act to allow the municipal politicians to make the decisions, because they will not be able to make decisions.

Mr Mike Colle (Oakwood): You had a chance and you walked away.

Mr Gilchrist: So you want us to interfere with the municipalities. Mike Colle calls on us to interfere with the municipalities.

Mr Colle: You had a chance to do something about it and you chickened out. You walked away.

The Chair: Mr Colle, please.

Mr Gilchrist: The same people who tell us not to interfere with the municipalities now want us to —

The Chair: Mr Colle, Mr Gilchrist.

Mr Colle: Because of downloading, you knew you had to walk away. You chickened out.

Mrs Boyd: On a point of order, Mr Chair: You may want to call the next people, and we can just deal with it very briefly as they come up.

The Chair: I'm going to call the next people. I'd like to try and get some order in this committee. I hope all members of the committee will cooperate and stop the name-calling.

Thank you very much, Mr Hann and Ms Clarke, for your presentation this morning.

The next presentation is the Canadian Federation of Students — Ontario. There are two presenters: Wayne Poirier and Mr Ashkan Hashemi.

Mrs Boyd: On a point of order, Mr Chair, before they begin: I wonder if at the end of the presentation, if there is time for questions, you would tell us how much time there is for questions each time. I would really appreciate that. It gives us a better idea how lengthy a question can be.

The Chair: I will do my best. I try not to cut people off in the middle of sentences, and sometimes some get more than others.

Mrs Boyd: I just meant so we know. If there's two minutes, it's different than if there's five minutes.

The Chair: Okay. I'll do my best.

CANADIAN FEDERATION OF STUDENTS — ONTARIO

The Chair: You may proceed.

Mr Wayne Poirier: On behalf of the Canadian Federation of Students, I would like to thank you for this opportunity to present to you today. I hope the information presented will be considered and that amendments will be made to this bill to lessen the negative impacts it will have on Ontario tenants. The federation is made up of more than 110,000 members in Ontario, at more than 20 campuses.

In the initial discussions surrounding the tenant protection legislation, New Directions for Discussion, the majority of presenters spoke against many of the changes, as they would be detrimental to the majority of low-income renters. We are now faced with Bill 96, which has not taken into account the public consultations of the discussion paper. Thus I will present to you our original response, as most of the issues remain the same. I will also point out some other areas of concern that have arisen from Bill 96.

I would like to start with the student-tenant profile. This piece of legislation will have an impact on several

thousand student renters. Among student renters, it should be noted that virtually all would be considered low-income earners, as they have limited income while attending school. In addition, students are among the most likely to deal with landlords on an annual basis, as they often rent in the place of study but live at a different permanent residence. For these reasons, Bill 96 will have great effects on the rent that students pay and the availability of affordable housing for them.

It should be noted as well that students' income has remained relatively fixed, while the largest ever tuition increase has been seen in the past two years. Therefore, even minimal changes to the rental rates will have significant effects on student renters.

Vacancy decontrol: Students are in a unique position, in that a tenant market will make them among the most susceptible to rent decontrol. Students often lease for one year and move on to more adequate housing. This will mean that as a student vacates a unit, the landlord will be free to increase rent to any level they desire. Landlords would be guaranteed this opportunity quite frequently in the student market. Rent control measures provide some consistency for students, which Bill 96 does not guarantee.

Harassment: Bill 96 provides incentives for landlords to harass tenants. In particular, students are often harassed, as they are less likely to follow through on complaint mechanisms. If a landlord wishes to raise the rent, it would follow that harassment would be an easy way to vacate a unit. The new measures of enforcement are useless unless this government is committed to providing adequate funding for enforcement. As it stands, there will be no money available from municipalities with all the downloading that is taking place. Rent enforcement will undoubtedly be a low priority for municipalities dealing with other restructuring issues.

In addition, we would like to condemn the proposal to allow discrimination based on social assistance. If landlords are given the right to discriminate against social assistance recipients and income, it would violate every definition of equal treatment. Any changes to the Human Rights Code should in no way discriminate against any person based on income or employment situation.

Subletting: I'd like to note that the right to sublet is one of the most important rights that students have in order to make making a living while away from home somewhat feasible. Students who return home must have this option available to them in order for them to make money during the summer to pay for their expenses at school.

Dispute resolution mechanisms: The proposed changes will likely become an undemocratic means of dispute resolution appointed by government and with the influence of a political agenda. Any dispute resolution process that is implemented must be independent of government and must follow due process in fairness and impartiality. Given the track record of this government in appointing such bodies, we are very sceptical about a body being created in a fair way for tenants to be protected.

The next item I'd like to get to is the creation of rental units. If the purpose of this bill is to produce more rental

units, clearly it has missed its aim drastically. One only need look to BC to see how rent decontrol and the abolition of rent control led to fewer new housing starts, more condominiums and higher rents. I will point you to page 8 of our brief to see the BC case at a glance. In that you will notice that condominium conversions to new units were increased with rent decontrol and new housing starts were very minimal.

The vacancy rate is already extremely difficult for students, and any decrease in affordable housing would make it impossible for students. Increases to rent only serve to limit housing. As a result, any demand created for housing will not be for rental units, because the increased demand would only be for affordable units and not new high-priced units. The solution to create more rental starts that are affordable is not found in this bill. We will urge that this be addressed. The need for subsidized housing will only be exemplified if this bill is accepted.

In conclusion, I'd like to say that this bill heavily favours landlords and does little to protect tenant rights and, more importantly, affordable housing. Students will be greatly impacted by any increases to rents. The effects have great spinoff effects for the accessibility of post-secondary education and, as a result, on student aid entitlements.

We urge you to rethink this legislation and maintain the elements of the current legislation which offer students bare minimal protection. I encourage you to have a more thorough look at our brief to understand some of the analysis contained within it. Myself and Ashkan Hashemi, the CFS researcher, will now take questions. I thank you for your time.

The Chair: Thank you, Mr Poirier, Mr Hashemi. Ms Boyd, you have about two or three minutes.

Mrs Boyd: Thank you for your presentation. Coming from London, the issue of student housing is very urgent in a community like ours where the community college and the university are a very big part of our economy and student renters are a very large part of our population.

I think you've done a very good job of showing the interaction of policies and the cumulative effect of those policies, like the tuition increases, like the changes in student loans in terms of part-time/full-time students, how all of that accumulates, and then you have this on top of it making it very difficult for those who don't have a lot of private resources to continue at university. I think that's something to keep in mind.

I wanted to have you talk a little bit more about the British Columbia example, because I think the biggest motivator for those who are in favour of this bill is the claim that it will increase rental units. Quite clearly, the BC example showed that after the abolition of rent control, the proportion of rental housing starts fell from 64% to 9% of all multiple dwelling starts and the slack was taken up by condominiums. That is exactly what our concern is, and we don't think there's an incentive here. We just heard an experienced builder say the same thing: This isn't going to increase housing starts, especially low-

cost housing starts. Is that your experience all over the province?

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Mr Poirier: That's the exact experience we would like to see avoided. In terms of new housing starts, any new housing that would be created would be high in rents. It's very unlikely that they are going to suddenly appear. It's very unlikely that Ontario is going to have a very different scenario from that of BC. In BC it is quite clear that once new, higher rents are the case, it is more likely that conversions to condominiums will be the case and not new rental units. As such this legislation doesn't make any sense, because if the aim is to increase housing for rental units, it's not going to happen. We have a clear example in British Columbia and I encourage people to look at that more thoroughly.

Mrs Boyd: There is already a problem for students in terms of the whole issue of whether they have to rent for a full year even though they're only in their location for eight months and that sort of thing, so the increase in the possibility of harassment from a landlord to get that movement even speeded up is very real, isn't it? The only incentive now for students to stay in the same place and try and sublet or find a job there is so that they can maintain their housing. But if this comes through, you really fear an increase in harassment, as I understand it.

Mr Poirier: We would expect that to be the case. We already see cases where students are currently harassed, and based on the fact that students have very little time when full-time studies and part-time employment are factored in, students don't have the time or the means available to go through dispute resolution processes. As such, landlords know that they are an easy target for harassment.

We expect that this would increase and that students would be vacating units that they currently sublet during the summer so that in September they can come back to their place of study and already have their residence. This would mean that students would be coming back in August, giving up a couple of weeks of work to come and look for new housing, which in the Toronto market, for example, is extremely difficult, and this is the case throughout the province.

Mr Gilchrist: Thank you both for your presentation. I hope you weren't overgeneralizing. As I look through your brief, I must challenge your suggestion that we didn't respond to the submissions you made a year ago. On one page alone, page 9, quasi-illegal basement apartments: Every single apartment in this province is covered by this act. Every tenant in any scenario is protected. So to your suggestion that it be added to basement apartment: It's covered. Shared rental accommodation: The unit is only vacant when all signatories to any lease have left. So if you rent a room and you leave, then the room is decontrolled. If four of you decide that you share a house and you sign the lease for the entire house, you're protected until all four people have left. So you're not at any risk if one person drops out of school or decides to move away.

The dissemination of information: There absolutely will be an abbreviated version of this act prepared, available for all tenants. In fact, we're looking at expanding the number of notices that municipalities would have to send directly to tenants when tax changes take place, for example, and give them information they've never had before.

I just heard your comment about harassment. We've expanded the existing Landlord and Tenant Act provisions on harassment and have put in fines that are so far beyond anything that's currently in the act that a landlord would have to be pretty foolish to tread in that area.

I must challenge one other suggestion you make and I'm glad you raised it early in the proceedings today. There is certainly no issue that has been as misunderstood as the section 200 aspect, the addition of income information, as another protection against discrimination.

Right now in Ontario it is absolutely, positively legal for landlords to ask about income information, but it is not covered in the Human Rights Code. We are adding it to the code and we are adding a second section. Everybody conveniently forgets there's a second paragraph after that which says that regulations will be developed that show the only means through which a landlord can use that information, and if it's used for discrimination, he or she will be guilty of an offence. That is a new penalty. That is a new right that has been added to the Human Rights Code. While others may disagree with that, I think the language is quite clear; and even more than that, the intent is absolute. We will not allow discrimination on that basis or on any other basis. You are quite incorrect when you say that it takes away the current code restriction against discrimination for source of income. That section of the Human Rights Code is not touched at all. I just wanted to clarify that point in your brief.

Mr Duncan: On the issue of section 200, the parliamentary assistant has failed to talk about section 36, failed to identify that the government is expressly prescribing that income can be used. They say they will bring forward regulations subsequently, but I think based on the statements of the minister in the House and based on their own track record, in my view it is quite clear that the government believes it should be authorized, in fact prescribed, that income sources can be taken into account.

The parliamentary assistant raised a couple of issues that I feel are addressed in the bill that you have raised in your presentation.

With respect to harassment, we don't agree with the government. We think you're absolutely right on the nail about harassment. It's quite clear to us that the amount of harassment that particularly vulnerable tenants or tenants in types of situations that many students will find themselves in will be heightened.

I'd be curious to get your views on section 37(3). We had a presentation put to us by a student landlord group in Kingston arguing that because of the nature of student accommodation and the amount of time that students are in an apartment, the eight months versus 12 months, this new bill does harm to landlords, student landlords specifically. I'd be curious to get your views on that.

You've dealt with the subletting issue, but the issue of security of tenure and termination of tenancies, I wonder if you could elaborate on that, please.

Mr Ashkan Hashemi: Just to your first point around income discrimination and harassment and things like that, I think, with all due respect to what the parliamentary assistant was talking about, it shows that maybe he hasn't rented anything for a very long time.

Mr Gilchrist: I am a tenant right now.

Mr Hashemi: Sure, you might have it in the law that you are restricting harassment, but the reality of when you go to rent a place isn't quite that cut and dried. When the landlord asks you what your income is, under this new legislation you have to tell him and — "Oh, but I can't use that information now that I have it to discriminate." So you might get a phone call a month later saying, "We rented it to someone else who came before you did." How do you know that's not what was discriminated against? It's great that it is in there. It's just ink on paper at this point. It doesn't deal with the reality of the landlord and tenant relationship, in my opinion; the same with the harassment legislation.

As far as subletting arrangements, and the eight to 12 months, it seems to me that it makes more sense — currently subletting is not up to the landlord. The landlord has to be aware of it, but it's up to you to make those arrangements. Why would a landlord want to sublet now when he could actually declare the place vacant and jack rents up to the roof if he wants to? The person who made a presentation before us made that point very clearly. What he wants to do is raise rents. That's exactly what this legislation will allow him to do. In order for them to build more affordable housing, he says he wants the moon. He wants his taxes cut drastically etc.

None of those are really viable answers. The most viable answer to building rental housing in this province is to have the government re-establish what was happening before in that the government was building affordable housing. The private sector will not do it unless it's for profit. Sorry, low-income rental housing isn't always profitable. That's something this government needs to be aware of.

The Chair: Mr Hashemi, Mr Poirier, unfortunately we are out of time. On behalf of the committee, I thank you for making your presentation this morning.

CHILDREN'S AID SOCIETY OF METROPOLITAN TORONTO

The Chair: The next presentation is the Children's Aid Society of Metropolitan Toronto, Ann Fitzpatrick. Good morning.

Ms Ann Fitzpatrick: Good morning. On behalf of the Children's Aid Society of Metropolitan Toronto, I'd like to make some recommendations on Bill 96. I'm a community worker and I work to support families and social workers in dealing with housing problems on a daily basis.

The CAS is legislated to provide child protective services and preventive supports to children under the age of

16 across Metro Toronto. We also provide foster care and adoptive care for children at risk, where necessary.

In 1996 we worked with over 15,000 children who live with their parents in the community, as well as providing services in care for an additional 2,531 children. In addition, we work with over 200 wards of children's aid who are now adolescents and moving towards independent living in the community.

Housing problems and child welfare problems are linked. This has been proven by many studies. A study we did in 1990 with the University of Toronto showed that housing problems were a factor in over 18% of child admissions to care.

Each admission to care has a large emotional impact on families, but there's also a financial cost to the government of over \$1,400 per month, and the average length of stay in care is about 16 months.

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Since July 31 of last year, there are an additional 184 children who have come into care. This month we had 1,766 children in care. There is no doubt that the stress, poverty and housing problems facing families are some of the factors related to child abuse, neglect and admissions to care.

We have a number of recommendations in our brief that's before you and we urge your committee to consider it carefully, as well as to look at some of the appendices which look at ratios of income to rent. The full list of our recommendations is summarized on page 10, but today we want to focus on two areas: the removal of rent control on vacant units, and the section 200 changes to the Human Rights Code, which we believe give landlords the expanded right to use income information in screening out tenants.

Before I get into the legislation, I'd like to show you a picture of the typical families we work with and how housing issues are affecting them. This is a family of newcomers in Canada. The father is employed at a minimum-wage job. They have two children and it's a two-parent family. They're sharing a one-bedroom apartment with another family of three. The children are sleeping wall to wall on the floor and the parents sleep on the couch. Their family doctor has communicated with children's aid a concern that the two children, seven and nine, are failing to thrive. They're losing weight because of the stress situations in this accommodation. The father has tried to find alternate accommodation but has been turned down because his income is too low.

Sandra is a single mom, with two kids, on social assistance. Her income per month is \$1,126 since the 21.6% reduction. She's paying 75% of her income on rent, but she pays her rent each month. She is looking for alternate accommodation, but she has also been turned down many times because she's on welfare or she has children.

Mary and her four children have been living in a cramped motel room along Kingston Road for the last four and a half months since she fled her abusive partner. This motel is one of 12 along Kingston Road that are trying to keep up with the overflow of the shelter demand in our

system. There are about 500 other homeless children and families in the same motel strip, paid for by welfare. Welfare pays \$1,350 per month to house her and her children for a month.

The children are ridiculed by other children at school, and they're experiencing stress and doing very poorly in school because of this environment. There's no place to play except in the parking lot. There's no privacy in this situation, and at times this parent seems close to the breaking point, although children's aid is trying to give her the support it can.

Jane is a young woman who is a 17-year-old ward of our society. She's living independently, finishing up high school and planning to go to college. She receives \$663 a month and is living in a small basement room in a house, which takes up 56% of her income. It's damp and there's often flooding. She wants to move to other accommodation but she's been turned down because of her age and her income.

These cases are not atypical. I deal with them on a daily basis. Fifty-eight percent of our clients are sole-support families and they're low-income, and over half are on social assistance. Only a quarter of our clients are in subsidized housing, so the majority are dealing in the rental market.

The National Housing Act talks about affordable, suitable and adequate housing, and I'm telling you that the circumstances families are living in in the community are going well below those standards. I think it's something the provincial government should be concerned about. Since the welfare cuts, Metro is estimating that 66% of recipients are paying more than their shelter allowance on rent.

The CAS opposes the deregulation of rents on vacant units, and we also oppose the changes to the Human Rights Code. We're particularly troubled by the volatile combination of these two policies, because it is going to give landlords, in lock-step, the power to raise the rents as high as they can and then set the income requirements, which will then screen out people on social assistance.

We're really concerned that we're going to be institutionalizing a permanent underhoused and homeless class of low-income families and children. Tenants make up 74% of the clients we work with at children's aid. They need housing on the private market. We think the government regulates all kinds of other services, products and utilities, and they should be regulating rents as well, especially in something as basic as housing, which is a human need. It's the parents who are homeless, it's people who have had an additional child, it's youth leaving care who are going to be the most vulnerable in the marketplace, having to negotiate with landlords.

The other presumption is that everyone has equal power to negotiate. I think in this situation it's very clear that vacancy rates are very low in the marketplace and our clients are not going to be in a bargaining position, with the kind of incomes they have, to get access to a vacant unit.

It also sets up two classes of tenants. The sitting tenant has certain protection and the tenant who is homeless or is looking for housing has no protection at all, and we don't think that's fair. Furthermore, we don't think negotiating rents is a common practice. Most of our clients would no sooner negotiate to buy groceries or to buy a dress than they would to negotiate with a landlord, so I think that's a very unrealistic premise.

We're really concerned about the downward spiral we're already seeing in the current rent control system, which is universal if these changes are implemented. We also oppose the changes put forth in section 200 and we do interpret it — we have read it — to mean that the use of income information will be able to be used to screen out tenants. Clearly, this will eliminate all kinds of additional housing options for people on social assistance. As I've outlined and as all the stats in Metro show, the reality for tenants is that they're already paying 50%, 60%, 70%, 80% out there. So if they're trying to find a cheaper place that might be 40% or 45% or 50%, their income will be used against them.

We also think that section 200 needs to be reworded to clarify that the absence of a credit check or rental reference shouldn't be used against a tenant who is applying for housing. We fully appreciate and understand that a landlord should have the right to use that kind of information if there's a negative credit rating or rental history, but what does a young person do who has never rented an apartment before? What does a newcomer to Canada do who doesn't have a credit card or a credit rating? Is the absence of that information going to deny them equal access to accommodation? We don't think it should go that way.

We hope the committee will understand the negative impact of a denial of rental housing on children and families. We think that our families use their common sense to assess what their income is, what the rents are in the newspaper and when they meet with landlords, and they are in the best position to make autonomous decisions about their family. It's not fair for a landlord to arbitrarily say, "You can't rent here because it's 30% of your income."

The children's aid joined with the four other child welfare organizations in Metro Toronto — native child and family services, the Jewish, and the Catholic children's aid — and we participated in a board of inquiry at the Ontario Human Rights Commission for the last couple of years, opposing the use of income information, in terms of protecting the human rights of tenants. We urge this committee to look at the testimony and the evidence that were brought forward at that tribunal. They haven't reported yet, and Bill 96 came in between, but we think if you review all the evidence, you will find that this is not the direction to go.

I'd like to conclude that children's interests must be considered when amending laws such as landlord and tenant laws, rent control laws and the Human Rights Code. We don't think there will be any additional cost to this government to implement the recommendations we've

outlined. In contrast, we caution you very seriously that there will be huge social and economic costs and many negative outcomes for children if these changes are implemented.

The Chair: Thank you, Ms Fitzpatrick. We have an opportunity for about a minute per caucus.

Mrs Julia Munro (Durham-York): Thank you very much. Yesterday we heard from children's aid and I raised the question with them about the fact that there is an opportunity for landlords. We've heard from landlords who have told us that they rent their units to those on social assistance. They find them to be great tenants, and there are certainly, as we all know, good landlords and good tenants.

But I wondered whether or not you see the announcement that social assistance money could be directly directed to landlords as a positive sign in terms of that particular issue you've raised.

Ms Fitzpatrick: I think that already happens in certain cases —

Mrs Munro: Yes, it does.

Ms Fitzpatrick: — with children's aid clients, where they have a proven record of arrears and certain problems, and we make case-by-case arrangements on that. But I think it's very unfair to label all people on social assistance that they're all automatically going to be poor credit risks and they're not going to pay their rent. That is why we need a strong Human Rights Code. I think the fact that landlords are saying, "If you get welfare paid directly, we will rent to recipients on welfare," is evidence, which has been covered by other studies such as David Hulchanski's, that many landlords, despite the protections in the Human Rights Code, have concerns about renting to social assistance recipients because of their low income.

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Mr Colle: Thanks, Ms Fitzpatrick. You've certainly highlighted another major deficiency in this bill: that it doesn't recognize the fact that there are children who are going to be made very vulnerable as a result of this bill. When they talk about tenants, they forget the children. As you know, in Toronto 36% of our children are already living in some kind of vulnerable situation, and this is going to add to it. Yet this bill, which is an attempt to deal with the housing situation, doesn't even mention the word "child" or "children." Do you feel we're going to be able to cope? Given the 22% cut in social assistance and this other destruction of affordable housing, what's going to happen to the children as a result of this and other actions?

Interjection.

Mr Colle: Well, they live in their darned apartments with their parents.

The Chair: Gentlemen, please.

Mr Colle: You don't have any children, but there are children who live in apartments who are going to be hit by this thing.

The Chair: Gentlemen, let's give our presenter an opportunity.

Interjection.

Mr Colle: But they live in the apartments. They're going to be hurt by your stupid Bill 96. You don't care. She cares about children.

The Chair: I'd like to hear from the presenter.

Ms Fitzpatrick: I am very concerned, because what I see right now in terms of the cases brought to my attention — and I don't think these situations are coming to the public's attention or the government's attention — is that we have more and more families we're working with who are living in very bad situations. They're living in unsafe and unregulated housing, they're living doubled up, they're staying longer and longer in shelters. As it is, I get the perception that many families are in a trap.

Already landlords are not upholding the Human Rights Code, even with the strong protections we have. I think the direction we need to move is to strengthen the enforcement of the Human Rights Code, strengthen the education to landlords and tenants about what their rights are and make it crystal clear that the amount of people's income or the source of income cannot be used to deny someone accommodation. It has to be crystal clear. When I read section 200, it is not clear to me, and section 21 is not clear to me.

We're in a housing crisis right now and children are in a crisis, and there's a cost to be paid for that, through an increase in children's aid services, an increase in shelter use, an increase in health costs. It's breaking out all over the place.

The other thing is, 10 years from now, what is going to happen to these children who are growing up in these very insecure situations, some of them moving five times in a year? That's what I'm concerned about. Are we institutionalizing that kind of downward spiral? We just need to look south of the border to see that it's become a fact of life in the US. Homeless families are just accepted as part of the terrain. I hope that's not what we want for Ontario.

Mrs Boyd: I'm very struck by what you say about not just the short-term costs but the long-term costs. You're being very practical here; you're not being a bleeding heart, as some people would say. You're saying practically, for society, if we don't guarantee adequate housing and adequate food to children early on, we pay the cost in another way later on. That's one of the very basic concerns I have. We're signatories to the rights of children, and one of the major rights for children is safe and secure housing. Here we are in the midst of a discussion on a bill that everyone who works with the vulnerable population has tried to tell this government takes away that security of housing. It's very costly in the long run, isn't it?

Ms Fitzpatrick: Yes. I don't know how to react to that except to say there's an awful lot of pain out there, children in pain and families in pain, and all I can predict with these two changes, in addition to the other recommendations, is that it's just going to get worse and worse. I can't even envision how we're going to deal with it.

The Chair: Thank you very much, Ms Fitzpatrick, for your presentation this morning.

Applause.

The Chair: Ladies and gentlemen, I'd like to remind you that the rules of this committee and the rules of the

Legislature do not allow applause or any form of demonstration. I ask that you respect that rule we have in this committee.

LAWRENCE SMITH

The Chair: The next presenter is Lawrence Smith, professor in the department of economics, University of Toronto. Good morning, Professor Smith.

Mr Lawrence Smith: Good morning. Before I turn to the comments I have, I might just point out that there's often a perception that economists don't care, having followed up on the previous discussion. I want to try and dispel that before I start by saying that we do care, in general, and I care. The question is only how we see the market operating, how we see the economic system functioning and what we see as the best way to achieve ends. If we talk about ends, I don't think you would find that most economists and most social workers, for example, would have different ends in mind. The question is the most effective way and the most reasonable way to get to those ends. It's with that context that I want to make my remarks this morning.

Rent control and tenant protection have taken many forms in Ontario. Implicit in this is the notion that tenants need special protection from the vagaries of the market, and they need this because either the private rental market is thought to be a market failure, meaning it doesn't respond or work, or because tenants have insufficient income to make their housing needs effective in the marketplace, or another way of looking at that is insufficient incomes to be able to buy a socially accepted bundle of goods, housing in particular. These positions are taken by a lot of people and they were made most forcefully, for example, by Professor Hulchanski to this committee.

These positions fail to reflect the way the housing market actually operates, the consequences of rent controls and the appropriate role and form for government policy.

Let me begin by looking at market failure. Market failure occurs when markets fail to respond to economic and financial forces. Because of lags in the adjustment process, sometimes you're going to have what looks like a slow response, but if we look at what's been going on in Ontario over the last number of years, we can see clearly that we've had a persistently low amount of rental starts and a persistently low vacancy rate. Clearly, we have market failure. I don't think there's any disputing that the rental private sector is not functioning.

However, that doesn't mean that the private rental market is naturally a market in failure or is even prone to fail. In fact, what it really means is that under the current conditions, especially the regulatory environment we have, the market responses are reduced and incentive for new construction is considerably reduced.

Let me look at this by looking at the story before rent controls, what happened when rent controls came in, and what I think would happen if rent controls were fully removed.

Before rent control, the rental market worked extremely well in Ontario. In the five years before rent control, for example, private rental housing starts averaged over 27,000 starts a year. In fact, not only was that true for the period 1970 to 1974; it was true in the late 1960s. When rent controls came in in 1975, the situation changed, and Ontario went from having a housing market that was functioning at a high level and gave us one of the highest housing standards in the world to a situation in which the private market went basically into rental failure.

In the five years immediately after rent control, private starts fell 80% and averaged only 5,500 units, and throughout the 1980s, they continued on average to be 5,500.

Rent control is not the only reason rental starts would have gone down. There were changes in demographics, there was an increase in inflation that impacts negatively and an increase in interest rates, but rent controls were the major reason.

You can see this in a number of ways, but let me just give you a couple of really easy ways to glimpse at it. The same demographics, the same inflation, the same interest rate factors existed in all of North America, yet if you look at Ontario in the mid-1980s compared to what happened before rent controls and compare that to the rest of North America, rental housing starts in Ontario fell 260% more than in the United States and they fell 200% more than in the rest of Canada, even though there were other and weaker forms of rent controls in most of the rest of Canada at that time.

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Enid Slack, in a study for the Thom commission many years ago, calculated that in 1984 rent controls were responsible for between 8,000 and 10,000 fewer rental housing starts than would have existed otherwise. Prior to rent controls there were no signs of rental market failure. Rent control broke the market connection between demand and rental price adjustment and the seeds for market failure were sown.

Let me comment on an issue that is often made, and again it was one stated by Professor Hulchanski, namely, that rent controls are a psychological barrier or a psychological concern only. It's not true. Rent controls are much more. They have very real financial effects. They reduce the expected return on investment and they reduce the profitability of new construction. Why? If rent controls are binding — to be binding, it means they have to hold something down, so they are either reducing the current rent or they are reducing the expected rent in the future. Probably they're doing both, because otherwise there is no point in them.

If they lower the rent, either now or in the future, that means the present value of that income stream is lowered. That's what the capital value is of the project, so that means they reduce capital values. It's as simple as that. If they lower the expected rental stream, they lower capital values. If they lower capital values, new construction is less profitable and you get less of it.

Another way of looking at this is that there's an ancillary effect that goes with rent controls, namely, rent controls raise what I'll call the going-in rent required for new construction. In other words, they make the rent higher that landlords need in order to build. Why? Suppose you want to end up with a rent over here at the end of so many years. If rent controls lower the expected growth of rents — because that's what they're going to do, they're going to hold future rents down — if you want to end up here and you are going to start here and you're going to grow at this rate before rent controls, if rent controls now tell you no, you're going to grow at slower rate because they're going to be lower, to get to here, you have to start higher. If you don't get higher, you're not going to get the same present value. Basically, if you want to end up at the same present value as before, you need a higher initial rent if expected future rents are going to be held down, are going to be able to rise less quickly.

Therefore, what do rent controls do? They raise the required rent for new construction. That means they reduce the amount of construction, because the rent that's available in the marketplace is determined in the marketplace.

What would happen if rent controls were removed? The first thing to note is that rent controls are not the only regulatory or policy depressant on housing starts. The differential in property taxes, which I'm sure you've been hearing about also, between single-family and multiple rental housing is another major depressant on rental housing starts. It actually leads to rents being much higher than they should be. It's something that's translated in the form of not only fewer housing starts but it ends up in higher rents.

It's not clear that the removal of rent controls by themselves would trigger a major supply response. It is true, however, that the removal of rent controls, if it were believed that they would stay off, would greatly reduce the going-in rent that's required for new construction. Just as it brought it up before, it'll bring it down. If that were combined with what I'll call a rationalization of the property tax system — in a study I did for the C.D. Howe Institute a few years ago, what I ended up with as a rationalization was basically a 45% reduction in rents for rental apartments, which still left them about 40% higher after the adjustments would have been made in the home ownership sector, higher than home ownership.

If those two things were done, at today's current mortgage rates of 7% or 7.5% — I use 7.5% in my calculations — rationalizing property taxes, together with the removal of rent control and today's mortgage rates, would generate a little bit over a 5% return on initial cash investment. That is more than enough to generate new construction in a free sector.

Let me just say, I'm only talking about the going-in rent, so for those of you who have been thinking long-term returns, that implies an internal rate of return, or an overall return, of about 13% to 15% over the life of the project.

These aren't only my calculations. A study by Greg Lampert, Steve Pomeroy and Helyar and Associates for

Toronto indicated that if property taxes were cut in half at today's mortgage rates, the initial return would be 5.6%. There's no question that the market, if this is the issue, would generate returns that would bring forth investment if regulatory restraints were removed in the forms of rent control and property taxes were rationalized, although not the full differential removed.

The issue of market failure is clear. Prior to 1975 and the introduction of rent controls, there was absolutely no evidence of market failure. If rent controls were to be removed and property taxes rationalized, new rental construction would be viable and would increase substantially. To the extent that we have market failure today — and we do — it is entirely government-induced. The termination of rent controls and rationalization of property taxes would eliminate this market failure.

Turning to the second issue: social need. The second argument advanced for rent control is social need, namely, that people do not have enough money to generate demand in the marketplace. This argument as a rationale for rent control — I'm not disputing that that is true, that there are people in need, but as a rationale for rent control, which is what we're looking at, it is completely spurious. It completely ignores the consequences of rent control and the relationship between appropriate government objectives and instruments.

Social need is a very major concern. There's no question in my mind that it's something that must be addressed. The question only is what form of policy should address it. Generally speaking, economists are united on the notion that the way you deal with income problems, income deficiency, is by using income policies — that is, social assistance, shelter allowances, guaranteed annual income — policies that transfer spending power to the recipient directly. Why? Because income policies are more efficient than direct intervention through regulation or in-kind transfers, because income policies maximize recipient utility or welfare for a given expenditure, and they do not directly distort markets or misallocate resources.

Direct intervention in the form of housing policy, and now I mean public housing, non-profit housing, interest subsidies — I'm not talking about the fact there aren't other reasons for these, because there are other reasons to have those policies; I'm talking only for the issue of social need because there's insufficient income. For income purposes, those policies are only appropriate if the correct or appropriate income policy response is not available. It's at best what economists would call a second-best solution. It's not the right way to do it. The right way is to deal with the problem directly through income transfers.

However, if you do have to have a housing policy for income distribution — and there are times when you would and when it would be appropriate — rent controls are clearly not appropriate. They're not appropriate because rent controls are inefficient and they're inequitable for dealing with income distribution. They are a very blunt policy instrument. Winners and losers are imprecisely targeted. For example, some low-income tenants who are

able to be in controlled housing benefit; others, who end up in uncontrolled units, namely, newly built units whose rents weren't controlled, or flats or single rooms or basement apartments, pay higher rents than they would otherwise have paid. What you have is that some win and some lose, even though they're in the same situation economically.

The Chair: Professor Smith, I regret to tell you you've got about two minutes left.

Mr Smith: That's okay. That'll do it.

Just to follow up on this, George Fallis and I, in a study we did on Canadian public policy, for example, indicate that the magnitude of net income distribution by income class is small, that is, rent controls did not redistribute income very much from one income class to another. The Ontario Ministry of Municipal Affairs and Housing in a 1982 study said only 34% of the savings from rent controls went to low-income families. Another study by William Stanbury and Ian Vertinski demonstrated that the bulk of benefits from lower rents go to tenants in high-income categories. In other words, rent controls are an inappropriate way for dealing with social need. They provide little, if any, benefit for low-income households and they often harm a segment of low-income tenants.

So rent controls cannot be justified in Ontario on either the grounds of market failure or social need.

The Chair: Thank you, Professor Smith. I'm sorry to cut you off, but we are out of time. I thank you on behalf of the committee for making the presentation to us.

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MICHAEL TREBILCOCK

The Chair: The next presenter is Michael Trebilcock, a professor at the faculty of law, University of Toronto. Sir, good morning.

Mr Michael Trebilcock: Good morning. I welcome the opportunity to speak to this committee. The focus of my comments is on the appropriateness of rent-to-income criteria and other criteria of default risk in the allocation of rental housing, so I am not speaking to the rent control issue but rather the so-called human rights issue.

I am a professor of law and economics at the University of Toronto. I work principally in the areas of contract law, competition policy, international trade law and government regulation. A recent book of mine published by Harvard University Press, *The Limits of Freedom of Contract*, addresses extensively, among other issues, the question of what we should do about discrimination in private markets: employment markets, housing markets, education markets and the like.

I should add that I was an expert witness for an association of landlords in the recent case before the Ontario Human Rights Commission board.

A principal theme of my comments this morning is to develop an understanding of what sets of issues human rights laws can appropriately deal with and what sets of issues are best dealt with through other policy instruments.

I take it that the purpose of human rights laws is to prohibit discrimination where discrimination involves drawing distinctions based on the group, class or category to which a person belongs rather than on the basis of individual merit. That view of human rights laws is widely espoused by courts and commentators. This means that human rights laws should prohibit direct forms of discrimination based on any of the ascriptive or group characteristics set out in section 1 of the code and should prohibit indirect forms of discrimination based on these characteristics.

In my book, I strongly support both objectives and indeed go further and argue that in a limited range of circumstances, affirmative action programs in employment or education may be justified, at least if complemented with various supply-side policies. However, the view I've taken over the years, including in my book and in my evidence before the Human Rights Commission board is that contract regulation is an inappropriate, inequitable and inefficient way to achieve society's redistributive objectives and that these are best dealt with through other policy instruments, including the tax and transfer system, public provision of primary and secondary education and health care and, arguably, public housing. In other words, there is an important institutional division of labour as between issues that human rights laws can deal with and social problems that should be dealt with through other policy instruments.

Why is it that human rights laws are not an appropriate instrument for dealing with economic inequalities? In the written comments I've prepared for the committee this morning, I take some very simple examples. That is to say, I think it would strike all of us as perverse that we would expect a seller of cars or food or clothing, any merchant operating in any of the streets around us, to be placed under a moral or legal obligation to sell goods to consumers who lack the cash to pay for them; that is, to sell the goods at the limit, at a zero price.

Why would we regard this as perverse? Clearly, suppliers placed under such an obligation — that is, to give away their goods irrespective of the ability of people to pay for them — would quickly drive these merchants out of business and would ensure that no other merchants entered such a sector, with the consequence that all consumers in short order would be rendered worse off. That is to say, if refusing to supply goods or services to people who lack the ability to pay for them constitutes discrimination for human rights purposes, there are thousands upon thousands of acts of discrimination going on all around us as we speak, as merchants refuse to supply goods to people who lack the ability to pay for them either by way of cash or on credit. This cannot conceivably be viewed this as a form of discrimination for human rights purposes.

Now, that is not to say that I celebrate the fact that people lack resources, either in cash or in terms of credit capacity, to buy many goods or services. In fact, I deplore that phenomenon, but the question is, how should we respond to it? As I have said already, the way to respond

to it is through policy instruments that address these inequalities directly: the tax and transfer system, public provision of primary and secondary education, public provision of health care, public provision, if necessary, of housing.

The first point I want to stress is, how should we respond to economic inequalities? Is human rights legislation the proper domain for addressing these issues? My answer to that is no.

Coming to the use of rent-to-income criteria in the allocation of rental housing and the controversies this has generated, there are two lines of objection to landlords employing rent-to-income criteria in allocating rental housing. Let me briefly address each of these lines of objection.

The first is that this is an incomplete form of information about what I call default risks; that is, simply to rely on income information and to relate this to rent ignores a range of other sources of information that may provide a fuller or more complete or accurate picture of a prospective tenant's potential default risk, and in that respect, it's inappropriate that landlords should rely exclusively on income criteria. Some commentators — I think Professor Hulchanski may take this view — feel that nothing short of an in-depth socioeconomic analysis of the circumstances of every family would provide sufficiently complete information to make an assessment of potential default risk.

Let me just say something about this line of objection. First, the acquisition of additional information is never costless. One has to ask, does requiring the acquisition of further information improve the quality of the risk assessments entailed? The answer may be yes or it may be no.

The second point that needs to be emphasized is that even if further information on potential default risks could be collected costlessly, past and present information — rental records, employment records, credit records — will never be able to predict the future with certainty, including ability to meet future rent commitments, which will depend on future contingencies such as job layoffs, sickness, marriage break-up and so on, which past and present information of course cannot and does not capture.

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Third, and perhaps most important, requiring landlords to assemble and review a more complete information set on potential default risks than simple income data will still mean that many individuals and groups differentially disadvantaged by rent-to-income criteria will continue to be disadvantaged, in that people who simply lack resources will likely be screened out, whether the screening mechanisms relate to income, credit records, employment records, past rental records, or whatever.

It's true that a fuller screening mechanism will advantage some and disadvantage others relative to rent-to-income criteria, but the issue for me is, are we persuaded that the net disparate impact on protected groups under the Human Rights Act is likely to be less by requiring landlords to collect and assess a broader range of information on potential default risks?

For example, somebody who meets, let us say, a 30% rent-to-income criteria may be disqualified if his or her past credit record or employment record is assessed. Somebody who fails a 30% rent-to-income test may qualify for accommodation in the light of a stable employment record. Whether the net impact on protected groups of requiring landlords to assess a broader set of information on potential default risks is positive or negative I think nobody knows.

One line of objection to use in rent-to-income criteria is that the information is incomplete, that there's other information out there that would enable a more accurate assessment of default risks to be made. I express scepticism about that.

A more radical objection to landlords using rent-to-income criteria is that even if landlords were required to assess this broader set of information, the fact of the matter — and this was conceded by many participants in the human rights proceeding — is that people who suffer from severe economic disadvantage will still be disadvantaged, that is, they will have poor credit records, poor rental records, or no records, as well as having bad rent-to-income ratios.

People who acknowledge that whatever criteria for assessing default risk are used will differentially impact on people who lack resources argue more radically that accommodation should be allocated on a random basis: first come, first served, or a lottery. This means everybody gets an equal chance, but of course the effect of random allocation of apartments would be bizarre. That is to say, landlords would be precluded from relying on any information relating to default risk and would be required to rent \$3,000 penthouse apartments to people who lack any resources at all, to use an extreme case. A form of random allocation — that is, first come, first served, or a lottery — would have severe effects on the supply of rental housing because landlords would be, as I say, prevented from screening tenants for default risk on any basis whatever.

Now I come briefly to Bill 96 itself. I'm going to make two points briefly. The first point is a process issue on which I'm critical of in the bill. The human rights issues addressed in this bill have been long debated and are highly contentious, yet the bill essentially defers to a process of executive decision-making by regulations for the resolution of these issues. I regard that, frankly, as an avoidance of legislative responsibility for making hard social choices and at variance with accepted norms of transparency and accountability in a representative democracy. However difficult these issues are, they should be dealt with in the legislation, even though I recognize that there are views that are widely divergent from mine on these issues.

The second issue relates not to process but rather to substance. Is there any middle ground that can be found between contending positions on the issue of screening criteria with respect to rental housing allocation? One possibility that occurs to me — I advance it only tentatively, but I think it may be worth exploring — is a provi-

sion that provides that where other information on potential default risks of prospective tenants is readily available, such as credit records, past rental records, employment records, guarantees, landlords may not rely exclusively on income information in rejecting a prospective tenant.

I think that is a potential compromise position that is worth thinking about. Why do I offer it only tentatively? First, I am not yet persuaded, but could be, that utilization of additional classes of information will reduce the net disparate impact on protected groups under the Ontario Human Rights Code. That is, even using these additional sources of information, people without resources still won't get housing.

Second, I'm concerned that a requirement, such as that I'm tentatively proposing, may place an undue burden on small landlords, and here I have in mind the elderly widow who is perhaps renting a basement apartment in her home. Requiring her, or landlords like her, to obtain full credit records on all prospective tenants may be unduly burdensome, unless this falls within the undue hardship qualification in section 11 of the code.

Those are my comments, Mr Chairman.

The Chair: Professor, you have timed it perfectly, because the clock has run out. This issue is one of the more contentious issues, as you know, with respect to this bill, and I know members would like to ask you questions. Unfortunately, there is no time. I suspect your paper will surface during the clause-by-clause discussions. Thank you very much.

ONTARIO BUILDING OFFICIALS ASSOCIATION

LARGE MUNICIPALITIES CHIEF BUILDING OFFICIALS

TORONTO AREA CHIEF BUILDING OFFICIALS

The Chair: The final presentation this morning is the Ontario Building Officials Association, Tony Chow, Dan Mousseau and Bernie Roth. Good morning, gentlemen. We have your written material and we are ready for your presentation.

Mr Tony Chow: Thank you, Mr Chairman. Mr Mousseau will provide you with a summary of our presentation.

Mr Daniel Mousseau: Before I get into this, I'll just tell you where our focus is. You'll see that we're not covering a broad spectrum, which you've probably been involved with in the past. Our comments are going to be only in the area of enforcement and responsibility, a very narrow focus.

Before I get started, I would like to introduce Tony Chow. Tony is the president of the Ontario Building Officials Association, and with Tony is Bernie Roth. Bernie Roth is on the executive of the Large Municipalities Chief Building Officials, and I'm the chair of the Toronto Area Chief Building Officials committee. That's the group

before you. We're not going to make three separate presentations. We've consolidated it to save your time, to avoid duplication and overlap and repeating ourselves two or three times, if that's okay with you.

As the first slide indicates, the OBOA represents about 2,200 building officials throughout the province of Ontario. It's the main umbrella organization for building officials in the province. The Large Municipalities Chief Building Officials represents chief building officials from 42 of the largest municipalities in the province, the largest being 50,000 population or larger. Finally, the Toronto Area Chief Building Officials committee represents 18 chief building officials in the GTA and some surrounding municipalities.

We've given you these slides so you don't have to read the four-page brief. I find it's a little easier if you have point form in front of you instead of trying to get into all the verbiage and what have you. You can worry about the verbiage later, if you so choose.

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Slide 3 lays out the areas we support that we think are great ideas in the proposed legislation.

(1) We think the transfer of authority from the Planning Act to the Building Code Act is a great step in the government's mandate to reduce duplication and overlap and introduce streamlining. The transfer of authority will reduce costs and eliminate the overlap that currently exists in some municipalities.

(2) The elimination of the notice of violation and the hearing: This proposal will allow us to follow due process. We have, under the Building Code Act, certain ways of doing things. By eliminating this, you're falling into the due process that is already there in the Building Code Act. The chief building officials have been operating under the Building Code Act since 1975.

I maybe stand to be corrected: In some of your municipalities, if you've done some building, you may have run into a building official whom you may have found to be a little unreasonable, but our position is that the chief building official has shown to be responsible and reasonable in the carrying out of the enforcement of the Building Code Act. We're not gunslingers; we don't go out there shooting from the hip and that kind of thing. We deal with the builder. We try to reason with people. Our ultimate goal is to reach a mutually satisfactory solution, still preserving the health and life safety of the building and the occupants.

(3) The revised procedure for service of orders. We believe this change will save time and money for municipalities. It will make searches at the registry office a thing of the past. It will add some streamlining to it. The existing procedure for work orders under the building code works very well.

(4) Similar powers of inspection. Providing the property standards officers with similar powers to the building inspector is a good step. It will speed up enforcement proceedings. The bylaws and the Ontario building code both rely on the Provincial Offences Act: A property standards bylaw, which the municipalities enforce, and the

Ontario building code, through bylaws as well, both rely on the Provincial Offences Act, and this change will make them both the same and put them under the same umbrella.

We operate right now under notices, orders, stop-work orders, prosecutions, that kind of thing. In certain instances, notices are not given because of the severity of the violation. Where there's something very wrong, life safety is at stake, we issue an order to comply. We try to treat everybody in a fair and equitable manner by dealing with them first hand, verbally, maybe a written notice or what have you, but in very bad situations an order is a requirement. That indicates the seriousness of the situation. It's usually for the health and safety of the occupant.

(5) Proposed recovery of municipal repair costs. That's a very good step in the direction to assist the municipalities to recover the costs if they find themselves in the unfavourable position of having to do the work. If we have to do the work, it's basically an emergency type of situation and, again, it's for the protection of the people. This proposal is a good balance and it gets more timely results. The contravenor ultimately pays, not the taxpayer.

(6) Finally, the revised higher fines speak for themselves. Putting fines back into the neighbourhood of the Ontario building code, which is \$50,000, possibly \$100,000, is a very good idea. They've done that in the building code. It's been there now for a number of years. Unfortunately, the reality is that when you do go to court and have the opportunity to ask for a \$50,000 fine, the courts haven't really come around to realizing the severity of the offence and we're still getting fines that are less than \$1,000. In some cases the builders view that fine as a cost of doing business.

The other thing, which is not in this slide and I just want to add, is that the legislation proposes court orders, a prohibition order. Those prohibition orders are really the hammer the municipality needs to obtain final enforcement. If somebody views a \$250 fine as a licence to do business, they keep on operating in that fashion. When you get one or two convictions, you go to the justice of the peace on your next conviction and you ask for a prohibition order, which means you cannot do it again; if you do it again, you're in contempt of court. Finally, you get their attention.

I am not sure if you're aware of it, but the Building Code Act changed a few years ago. It used to be that you were subject to a fine and up to two years in jail, which was really an interesting provision. That's been taken out. I'm digressing here, but we thought the two years was a good idea because the people then saw the seriousness: "If I really screw this thing up and go to court, there's a chance I could go to jail." That's taken out. The prohibition order is still there and we really support the prohibition order.

Those are the areas we support and the reasons we support them.

The final slide shows the areas where we strongly recommend that this committee endorse or support our presentation in terms of changes to the legislation.

(1) The first recommendation is one-stop service. One-stop service is a very admirable goal on the part of the government. When you try to get a building permit — I've got them myself for doing my things, but when the general public tries to get a building permit, there are myriad areas you have to go to, myriad other hurdles you have to cross before we can even give you a building permit.

The red tape commission recommended that various ministries — I won't read them to you; I gave you an excerpt of 122 — get together and develop options and a recommended approach to delivering one-stop service for all necessary approvals and permits related to the construction and maintenance of buildings. We think that's a tremendous idea. That's a great step forward. We also believe that the requirements of the other agencies, as they affect existing buildings, should be consolidated into one document.

(2) The second recommendation is that the property standards be mandated in the building code and to the chief building official. The building code right now has the chief building official as responsible, with statutory responsibility for enforcing all aspects of the building code. The proposal is to take the property standards provisions out of the Planning Act and put them into the Building Code Act, then they would be running parallel in the Building Code Act, with the chief building official having no responsibility whatsoever over that section dealing with property standards.

We believe that property standards should be mandated in the building code and that the chief building official should have overall responsibility for that piece of legislation that would also be in the Building Code Act. Doing that would add further enhancement towards one-stop service. If people have property standards complaints, they know where to go. There's only one place to call: You call the chief official or his office and you get your service.

The other aspect of that is that if you make that move — I don't want to sound political here, but the province is amalgamating numerous municipalities in Toronto and throughout the rest of the province. If you mandate the provincial property standards requirements to the chief building official, you will force other municipalities to consolidate their own administration and eliminate duplication in those municipalities. Instead of having two people running in two different directions, one person would be overseeing the whole action.

(3) I've already covered this by mentioning the red tape commission. I'll briefly mention it one more time. The red tape commission recommended that anything related to the maintenance of existing buildings should be consolidated into one spot. I mentioned that; that's 122.

The consolidation of other agencies' requirements into one spot, especially as it affects existing buildings, will avoid more duplication and will make it easier for the consumer to have their problems addressed, have responses to their concerns coordinated so that they're not having to go in various directions. Right now, if you have a problem with an elevator in your building, don't call us; call the elevator safety branch. If you have a problem with

property standards, you may call us or you may call another department in the municipality. It's that kind of thing. This would streamline and assist the public in obtaining service and obtaining service in a more timely fashion.

(4) Finally, we recommend consolidation of other building-related legislation and standards into one document, and that follows from the red tape commission as well. The ministries of Municipal Affairs; Housing; Economic Development, Trade and Tourism; Consumer and Commercial Relations; Energy and Environment; and Solicitor General and Correctional Services all have some legislation that deals with existing buildings. If you could consolidate that in some fashion, the people who live in apartment buildings or rental accommodation have a one-stop shop, one place to go to get all their troubles realized.

Right now, in Burlington, where I come from, if they have a problem, they have to call the fire department, they call the health department, they call the elevator people, they call the building department. They're calling all over the place to try to get people to come. A whole army of servicemen show up. When the building inspector shows up, the provincial offence officer shows up, the health inspector shows up, the fire department shows up, it just looks ridiculous. It looks like bureaucracy at its best.

The Chair: You've got about a minute left.

Mr Mousseau: In summary, we see benefits to all the parties. The tenants are going to have fairness and better results. We're an impartial third party. We go out and see what we see and make a judgement call based on what we see. The tenants will get fairness and better results. The landlords will have an incentive to complete the repairs, and we will be working with them in that regard. The general public will see reduced costs. The one-stop shopping, that type of thing, will be a benefit to the general public, a benefit to us. As people keep saying, there's only one taxpayer. We just happen to be paying it out in many directions.

In closing, I'd like to say that our associations are supportive of the government's initiative to consolidate the various regulations enforced at the municipal level. We believe that bringing the regulations into the Building Code Act will result in a more uniform approach to enforcement and better utilize the limited resources that municipalities have to deliver these types of services.

Thank you for allowing our associations' input into this progressive piece of legislation. We would be happy to answer any questions you may have.

The Chair: Mr Mousseau, unfortunately we are out of time. On behalf of the committee, I'd like to thank you and Mr Chow and Mr Roth for making your presentation this morning.

Ladies and gentlemen, that concludes the presentations this morning. I will make one brief announcement on behalf of the clerk's office. They've asked that any airplane receipts or taxi chits that haven't been used be returned to the clerk's office for purposes of auditing.

I recess this hearing until 1:30 this afternoon.

The committee recessed from 1155 to 1334.

QUEEN STREET PATIENTS COUNCIL

The Chair: Good afternoon, ladies and gentlemen. Our first delegation this afternoon is Jennifer Chambers of the Queen Street Patients Council. Good afternoon. You may start.

Ms Jennifer Chambers: The Queen Street Patients Council is a non-profit board consisting of people with direct experience of the psychiatric system, known as psychiatric consumers or survivors, elected by the same. The council works to represent the interests of people who are or have been patients at Queen Street Mental Health Centre. As you may know, Queen Street Mental Health Centre is the largest provincial psychiatric hospital in the province, in the middle of the largest psychiatric survivor ghetto in North America. The council has two part-time staff, of which I am one.

Some of the issues I could raise today have been well argued by other representatives from other groups. I'll focus on the special impact that this legislation will have on psychiatric survivors, and I mean a crushing impact.

There are two major categories of inequities to which psychiatric survivors are going to be subject. One is the injustice resulting from unequal access to those rights that remain legislated. The other is the legislated inequality in creating a special deprivation of rights for people in care homes.

This legislation relies on the ability of individuals to fight for the price of their housing, to fight individually for its proper maintenance and to fight easier evictions. The result is to stratify tenants according to their ability. It is a law of the jungle.

I don't know if you're familiar with the term "vulnerable person," but it exists for a reason. People who landed in the psychiatric system are generally coping with a lot, in themselves and in their lives. Are you seriously suggesting that everyone in Ontario who needs to get a home has to negotiate for it? A lot of people who are perfectly able to choose housing in their price range will find bartering for a bed overwhelming. The vast majority of people in the psychiatric system are abuse survivors, and the conflict inherent in negotiation would be frightening to many of them. Most of my friends who are or have been in Queen Street are good, caring people who often give the little bit they have to people who ask for it. Yet this government is setting up a situation inviting landlords to take every cent they can get from a prospective tenant. You're inviting disaster.

I can barely count the ways in which this legislation leaves vulnerable people without access to even the minimal rights provided. How are vulnerable people supposed to cope with the discrimination that's so roundly encouraged by the legislation? Psychiatric drugs can cause tics, spasmodic movements, slurred speech and other characteristics that make people easy targets for prejudice, especially as most psychiatric survivors are also on social assistance. To access a tribunal, a properly filled out application must be filed in writing within five days. Some people will not be able to read enough to find out that they

have this opportunity not to be able to write. Mediation is going to favour the articulate.

It is the position of the Queen Street Patients Council that individuals should not be required to fight on their own for shelter to this extent. Citizens have the right to expect their government to provide some generalized protection. If this bill is passed the way it is today, we certainly hope the government is planning to fund a substantial number of advocates for the people whose vulnerability is increased tenfold under this legislation.

Now I'm going to deal particularly with the impact of the legislation on people in care homes.

The term "care home" sounds protective, don't you think? But care homes are completely unregulated. Under existing legislation they must at least be registered, but this act does not even require that. All that is necessary to be called a care home is to provide meals and give out some pills to tenants. It's possible to live in a care home without receiving any care oneself. Currently there's no particular incentive for a landlord to call her or his property a care home, but now there will be perks, because this legislation diminishes the rights of people in care homes more than any other tenants', and where tenants' rights are reduced, landlords are enhanced.

The Residents' Rights Act, which this bill will abolish, gave people who were in care homes longer than six months the same protections as other tenants under the Landlord and Tenant Act. The Residents' Rights Act was created to stop the arbitrary evictions of poor, vulnerable tenants that became known as garbage-bag evictions — because tenants would find themselves out on the streets with all their belongings in garbage bags — for reasons that would not lead to evictions for people covered by the Landlord and Tenant Act. Bill 96 returns us to the bad old days by wiping out the Residents' Rights Act.

Under Bill 96, section 3, people in care homes are not covered under the Tenant Protection Act if the operator intended that they live there for no more than a year. This means that fewer people in care homes will have the same rights as other tenants. Now that we have legislation based on intention, what is in the mind of the landlord? How is this to be established? What if the tenant has something else in mind?

Section 93 allows a landlord to evict a tenant if the tenant no longer requires the landlord's level of care, or requires more than the landlord and community services are providing and if there is appropriate alternate accommodation. This section, called "Transferring Tenancy," should be titled "special rights to evict people in care homes." It is based on the assumption that people in care homes are incompetent to make decisions about where they should live and what kind of care they require. Who is the landlord to decide that someone no longer needs something or that the care they are receiving in their home from another service is inadequate?

This section does not even allow for the tenant to arrange for more community services. It refers only to those services already being provided. Under the Substitute Decisions Act, someone is either competent to make this

decision for themselves, or they have a substitute decision-maker for treatment who will make this decision for them. The landlord has no role in health care decisions.

1340

Psychiatric survivors and people with disabilities have stated for years that services should be independent of housing. If a person's need for care changes, why should they have to keep moving? It makes no sense. It is disruptive, stressful and bad for people's health. People aren't baggage to be moved for other people's convenience.

What is the definition of "appropriate alternate accommodation?" No one has the right to decide what accommodation is appropriate for someone else. Being in a care home does not mean that someone does not have thoughts, feelings, will and ownership of their own body and its location in the world — and legal rights. To single out people in care homes for this kind of violation of their right to self-determination is grounds for challenge under the Ontario Human Rights Code, the Canadian Charter of Rights and Freedoms, as well as the Health Care Consent Act and the Long-Term Care Act.

Under Bill 96, if a tenant in a care home disputes this eviction, mediation before a tribunal may be mandatory, and according to section 171(2), mediated settlements can contain provisions that violate even the Tenant Protection Act. Once again people in care homes are being given a special opportunity to have their rights violated. A mediator can potentially become a sort of anti-advocate. Without the benefit of an advocate, a vulnerable person could end up with, for instance, no proper notice of eviction.

Does this sound unlikely? Eviction without proper notice is exactly what happened at 46 The Queensway when tenants were shipped off to a new location in another town with 24 hours' notice. Frightened, vulnerable people were manipulated and frightened into leaving their home with a day's notice and with no information or other options offered.

Bill 96, which opens the door for more conversions, renovations etc without municipal approval states that the landlord can evict people in order to do this and must only make reasonable efforts to find appropriate alternative accommodation. No definitions are provided. Would relocating someone in another town be considered reasonable or appropriate? What if there is no such housing available to tenants because of the reduction in low-cost housing that is going to be caused by this bill? Municipalities won't be able to regulate the process. The landlord, having made some effort, will not prevent people from ending up on the street. Why isn't eviction prevention a priority?

In conclusion, I would like to point out that even if economic, not human cost is what drives this government, it is making bad decisions. This bill will create more homelessness, and shelters cost more than homes: \$1,100 a month for one person. Homelessness also makes people crazy. I have a study you are welcome to a copy of that finds that the vast majority of people who are homeless do not start off with psychological disturbances but develop them from the intense strain and vulnerability of being

homeless. This government is now setting aside 50 beds at Queen Street for homeless people at the average cost of \$10,000 a month. Wouldn't it be far more economical to create the conditions in which people can keep their homes?

Applause.

The Chair: Ladies and gentlemen, as I indicated first thing this morning, demonstrations of any kind, whether it be applause, whether it be boos, whether it be buttons, sir, are actually not allowed. The Speaker has ruled those out of order and I'm obligated to rule them out of order as well. I ask that you respect those rulings. We have to conduct these committee hearings in the same way the House is operated.

Ms Chambers, there is time for questions. We will start with the Liberal caucus. We have about two or three minutes each.

Mr Duncan: I'm going to ask a brief question, then Mr Kwinter has one.

Thank you for your presentation. I want to explore with you for a minute the concern you raised around mediation and its particular impact on vulnerable people, because that is an argument other representatives of vulnerable people we've heard from have not brought up and it was something of a surprise to me. I've often felt the notion of mediation in disputes can be beneficial.

I wonder if you could expound on that a little bit for me. Your presentation today was unique in that sense. My own bias prior to your presentation was that mediation could be helpful particularly to people — not necessarily vulnerable people, the kind of client or individual you deal with — in other instances. I wonder if you could perhaps expound on that a bit for us.

Ms Chambers: I'll give you an example of my experience at Queen Street Mental Health Centre when people are, say, in a situation with staff in which they have different opinions and they become conflicts. If a vulnerable person doesn't have, say, an advocate with them to support them, it's very easy for them to be overwhelmed by the greater familiarity with the rules the staff have — the staff are very articulate in this — and their general concern about what the outcome could be of the mediation and discussion.

Mr Duncan: So it's related to your concern that individuals, clients you may deal with, would define themselves in a mediated situation where they'd have no advocate or representative (a) to perhaps put their position more clearly, or (b) to explain the position of the landlord more clearly. Am I interpreting that properly?

Ms Chambers: Yes.

Mrs Boyd: Thank you very much for your presentation. I want to talk a little bit about the comments you made about the kind of situation that happened in 46 The Queensway, because coming from the London area I know how concerned people are for those who were suddenly moved into their neighbourhood and their inability to provide the services, but also people's real disbelief that this could happen to people. Yet if it can happen. Although we were assured every ministry was looking into how to

help these folks, no ministry appears to be able to help them now. This bill is going to give landlords the right to move people around willy-nilly at their convenience. They're just going to be baggage.

Ms Chambers: So it seems. Even if the bill contains some requirements for proper notice, it's also possible for that to be suspended for tenants in a care home. People will be as vulnerable before, with even less recourse than they have now.

Mrs Boyd: The changes in terms of conversions and renovations, which were the purported reasons for moving the folks to Aylmer, are made much easier under this act, aren't they?

Ms Chambers: Yes, they certainly are.

Mrs Boyd: I have real concerns because I see this from two perspectives. One is that communities need to be sure that the services are in place for people who are going to need them in their communities, and this kind of ability to simply transport people to another community, when we're seeing increased costs for communities in providing services, is very worrisome, isn't it?

Ms Chambers: Yes. It makes you wonder what it will mean in terms of "appropriate and reasonable" measures for people being taken and whether or not in some people's eyes this would fall into the category of "appropriate and reasonable."

Mrs Boyd: One of the people in Aylmer indicated that the whole impression he got was that these people were not being treated as people but almost as the belongings of the landlord, and this repeats some of the concerns Dr Lightman originally expressed in the Lightman report about care homes and about the real need to ensure that it isn't an increase of vulnerability when someone is supposedly being cared for in that setting.

Mrs Munro: Thank you very much for being here today. I just wanted to come back to the issue you raised with regard to the care homes and the legislation in section 93 about that. Could you explain for us your familiarity with the community care access process and its role in regard to care homes?

Ms Chambers: Are you talking about supports someone could arrange other than what's provided in the care home? Is that what you're asking?

Mrs Munro: Also the fact that the community care access has that legal mandate of ensuring the appropriate level of care.

Ms Chambers: Sorry, I'm not sure I know what you're asking.

1350

Mrs Munro: My question really comes from the fact that you have expressed some very strong concern about this section and that in subsection 93(2) it says, "the level of care that the landlord is able to provide when combined with the community-based services provided to the tenant" and so forth, that sentence. My question to you then is with regard to the legal mandate of the community care access centre in providing the level of care for an individual. It has precedence over the care home, does it not?

Ms Chambers: No. There are a lot of different services that can provide care, some of which the landlord may choose to allow access to for the individual or some of which the landlord might for some reason decide not to allow into their home. The way the legislation is worded, it refers to the community care that is being provided. It doesn't even allow for the possibility that the person could seek out greater care.

Mrs Munro: But it does. It says "that the landlord is able to provide when combined with the community-based services...."

Ms Chambers: It says, "when combined with the community-based services provided"; it doesn't say that "could be provided."

Mrs Munro: But the community care access centre has that legal responsibility to provide care appropriate for the individual.

Ms Chambers: I'm not aware of any place, regarding the support of people who come from the psychiatric system, in which there's a legal obligation for a certain level of care to be provided, so I'm not sure what you mean.

Mrs Munro: My comments simply refer to that legal responsibility of the community care access centre for those people who are resident in the area over which they have jurisdiction, that they have a legal mandate to provide long-term care, and obviously it takes precedence over this part of the legislation. They have the responsibility, community care access.

Ms Chambers: Not as far as I know. There's no overriding body that takes care of the care provided to psychiatric survivors in homes.

The Chair: Ms Chambers, thank you for your presentation.

Mrs Boyd: On a point of order, Mr Chair: This is several times that Ms Munro has raised this question and has said that the community care access centre's mandate should resolve this problem. Nowhere have I seen anything written down about that being the case which can be seen by people who are apprehensive about this legislation. In fact, there have been a number of disputes of that. The issue that was raised in your question and in the answer about the fact that this bill reads "the care that is in place," the landlord is not able to offer the care that is in place in combination — we're talking about mixing up the residents with the care.

I would like, Mr Chair, a policy statement that clearly shows that this apprehension is not correct and that clearly people can be assured they will get the care they need, and we need that tabled with this committee before we go to clause-by-clause.

The Chair: Ms Boyd, I think it's fair that you ask a question, and the parliamentary assistant to the ministry may or may not answer it. I can't stop any member of any caucus from saying anything. It's not for me to say what is correct and what is incorrect.

Mrs Boyd: I wasn't asking you to.

The Chair: Accordingly, your point is out of order. However, the question —

Mrs Boyd: Mr Chair, I was asking for the tabling of information.

The Chair: You have put that forward and I'll trust that the ministry will deal with it appropriately.

TOUCHSTONE YOUTH CENTRE

The Chair: The next presenter is the Touchstone Youth Centre and the representative is Sabine Wood. Good afternoon. You have three people with you. I trust you will introduce those representatives to the committee. You, Ms Wood, are the executive director?

Ms Sabine Wood: That's correct.

The Chair: You may start with your presentation. Thank you for coming.

Ms Wood: Mr Chair, honourable members, I'd like to introduce Marleane Davidson, who is the work employment counsellor and housing coordinator over at Touchstone Youth Centre; and a former resident, Kulvinder Kalirai; and Cindy Buott, who hails from Peterborough and will speak a little bit about the whole issue of homelessness and housing. I'd like to begin by expressing my thanks to the committee for the opportunity to speak on the subject of legislative amendments proposed by Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies.

Section 200 of the proposed bill would amend the Ontario Human Rights Code to allow landlords to refuse to rent to persons who do not meet their requirements. This will have devastating results for some of the most disadvantaged people among us. Access to adequate accommodation is a basic right for which there is clear international recognition, and I'm here to speak about this today.

As mentioned, my name is Sabine Wood and I'm the executive director of Touchstone Youth Centre. I operate East York's first and only emergency youth shelter. Touchstone Youth Centre is a 23-bed emergency shelter located in the borough of East York. We provide food, safe shelter, crisis and support services, including a work employment and housing program, to over 750 young people annually. The length of stay is three months and our age group is 16 to 20.

The primary reason that youth need shelter is chronic homelessness, which includes family breakdown, evictions and when fleeing violence or abuse. Reductions in the lack of affordable housing and rising youth unemployment and a combination of other social factors have made homelessness a growing and visible problem in East York as well as throughout Toronto. Homelessness is a highly complex issue which relates directly to housing, to jobs, health and mental health. At any given time some 5,000 people are visibly homeless and are living on the streets. An increasing number of these are youth, which I'm very much concerned about.

In 1997 alone, Touchstone Youth Centre has been operating at near capacity all year and at times over capacity, especially during our extreme cold-weather response alerts. The number of youth who are seeking shelter and housing have increased steadily since 1994.

We decided at Touchstone Youth Centre to collect from January 1, 1996, until June 30, 1997, a phone survey. The survey was taken by staff and volunteers who were tracking calls from youth. We handled 1,672 calls where staff were unable to fulfil some of the requests for service. The major reason for the inability to service these calls was that, number one, Touchstone Youth Centre was full to capacity, but the secondary reason was that these individuals had nowhere else to go. The third reason was that they had just been evicted from their home.

Obviously the cuts have made it more difficult for young people who are on any kind of student welfare or social assistance to pay any of their housing costs. They cannot cover their rent at times and must use food money. Evictions have dramatically increased and landlords are fearful of renting to this vulnerable group. The poor can no longer afford phones, utilities, nor transportation for apartment searching, bargain shopping or even medical appointments.

We as shelter operators are challenged to find supportive housing for youth. Vacancy rates are at historic lows — we know that — and often affordable housing that is available is dirty, infested, unsafe and very depressing for young people such as Kulvinder, and we at times feel that there's no hope in sight.

Given how many youth have already been turned away from support services, such as emergency shelters, I'm here to put out a compassionate request that you take into consideration that section 200 be amended to ensure that our youth, who do not have access to references, to first and last months' rent, to the use of credit cards and who are renting for the first time, will not be excluded.

1400

Please give careful consideration to how we take care of our citizens, how we perceive ourselves as a society, and the effects of your decisions on that society. Thank you.

At this point I would like to bring forward a young person by the name of Kulvinder. Kulvinder and I go back many, many years, from working in Peel region at another emergency shelter to Touchstone Youth Centre. She is one of our young ladies who has had tremendous success in our program and is currently out in the community. Her name is Kulvinder Kalirai, and welcome.

Ms Kulvinder Kalirai: I'll start off by talking about how I got to Touchstone. Growing up in a violent home with parents from another country, with a lot of strictness and a lot of abuse, one night after a certain incident when I went to the hospital I was referred to a youth shelter. After staying at that shelter I was referred to Touchstone because I couldn't stay there. Part of that had to do with just being depressed, and they didn't want to be responsible. When I went to Touchstone it was a lot different. They accepted that and they said, "We're here to help you."

Then I started off with their work employment program, where they provide housing and they provide counselling for jobs. Part of that was that when you're looking for housing and you're only 17 years old and you're calling places and you ask people general questions and the response is: "Where's your family? Why don't you live with

your family?" and other questions, including questions that I feel were inappropriate, it's really hard.

After talking to Sabine about this bill, I thought I had to say something because it's very hard being young and being on your own and not speaking to your family and hearing someone on the other end of the phone asking you about your family and even requesting your family's phone number when you've lost contact with them. Even that was very hard. It's just because you had to save yourself from a situation. You feel badly about doing that because it's your family and makes them look bad.

Housing is very important, and when you're young and you can't find a place to live, that's what the shelter is there for. I'm just glad that Touchstone is there, because I think otherwise I'd be out on the street. It's important that this issue is addressed because I don't think a lot of people realize how many people are homeless. A lot of them are youth who just can't seem to get housing anywhere because of some of the barriers: (1) just living at a shelter; (2) being young and not having a stable source of income.

Presently, I work. Actually, I have two jobs, and even with that and just being young and the questions that people ask you, it's still hard. I'm living in shared housing. I wish I could have my own apartment, but I don't. Part of the reason is that some things have to do with credit checks and having a credit card and paying first and last, which is really hard.

Ms Marleane Davidson: Hi. My name is Marleane and I run the work employment program at Touchstone. I've witnessed a lot of heartwrenching stories of youths whom I assist to get housing, get jobs and try to get out there to make it on their own. I've sat there and listened to some of the phone calls and some of the questions that are asked and it's remarkable to see them hold their heads up still.

A lot of the youths who have gone through the program are connected with jobs, which pay them minimum wage, so they are willing to pay the rent. It's just getting out there to get an apartment. Some of the scenarios they've come across are: "Oh, you're too young. Where's your family?" One that came along yesterday was just shocking to hear. We had a young girl who called and she could have the place but they said, "You're a female and I can't rent to a female, because if I rent to a male who is on welfare, he'd be more likely to get a job than you would." I was shocked. I just could not believe it.

The endless stories that go on — "You're not working," but a lot of the youths who go through the program get connected with jobs. They're just now looking for a place to live, a place to call home, security, which I think they should be entitled to. They just want to be a part of a community and the barriers that are out there are just phenomenal.

There was a call-back where a caller had told them that they should go and live in subsidized housing. They're not aware that subsidized housing lists are very, very long. The time on waiting lists is incredibly long, and they also have to meet the criteria. They not only have to be living in a shelter to get emergency housing; they also have to fit

in the guidelines of coming from an abused background. The waiting lists are long.

I also sit on the board as a vice-president for a non-profit organization. I've had to refer some of our residents there, but due to the waiting list, they are still waiting to get in. The barriers are out there, and somebody who has that high-income job has more opportunities than the youths who have low-income jobs. They're not all welfare recipients. They are out there and they have jobs. It's just an income barrier. Thank you.

Ms Cindy Buott: I'd just like to share my story about what it's like to be homeless. I had rented a place and I thought it was mine. I have three children and I'm a single parent. I rented the place. The landlord took my money and said I could move in. Then he got to thinking about it and said that my level of income wouldn't be sufficient, so he asked me to leave. When I refused and said no, I wasn't going to leave, he said he would charge me with trespassing. So for two weeks in January, I was forced to live between a 24-hour doughnut shop and my car until everything got straightened around. Actually, by the time things got settled and I had been to the legal centre for help, it was February 15 before I found accommodation. The impact that had on myself and my children — you just don't realize what it does to you to be homeless. It was quite devastating.

The Chair: That concludes your presentation?

Ms Wood: It does. Thank you.

The Chair: Thank you. We have an opportunity for one question, and I will give that to the New Democratic caucus.

Mrs Boyd: Thank you very much. I know that your organization does wonderful work. I hear about it all the time and I'm so pleased that you came to give this perspective. It takes a lot of courage.

I guess one of the biggest issues for you, then, is the ability of a landlord to base a decision about tenancy on income, which is the big change. People have been able to do the credit check stuff before, and we know that, but you believe this adds that extra barrier to the young people you serve to be able to get accommodation.

Ms Davidson: Definitely. About 90% of our youths who use the shelter — we have 15 to 21 youths who go through daily, and they're not just residents who are living there. There are outreach residents whom I deal with also who come back with issues they've had dealing with landlords. They pay their rent; it's a matter of landlords dictating — "You have too many friends over." For any other individual, that wouldn't be a question, but because they're young, that's what they are faced with.

Mrs Boyd: Thank you. You had an addition?

Ms Wood: In addition to what Marleane has just said, there are nine youth shelters across Metropolitan Toronto. In our particular shelter — we've got around 750 young people who go through the system — half of them are repeaters because they have lost their place of housing due to inadequate income to be able to continue to pay rent. Of those young people, 60% are actually students who are doing the best they can in attending school and also having

to live independently in the community. That's where the repeaters come from. I just wanted to stress that also.

The Chair: Thank you for coming. I will say we have your newsletter, which we will all read.

1410

OLDER WOMEN'S NETWORK

The Chair: The next presenters are Dorothy Fletcher and Eileen Smith, representing the Older Women's Network.

Ms Eileen Smith: I'm sorry, but Dorothy Fletcher was not able to come this afternoon. I have come to make the presentation on behalf of the Older Women's Network.

The Chair: You're holding the fort. Thank you for coming. You may start when ready.

Ms Smith: Good afternoon, folks. I gather that you've been called back from vacation early to attend these hearings. We appreciate your commitment, particularly those of you who are trying to find real and meaningful solutions to the shortage of housing in Ontario.

I am a senior. There are no vacations when you are a senior. When one reaches 65, there is no escaping your situation. You wear your badge wherever you go. What you have is what you have. There are no miraculous new opportunities that will bring fame and fortune, no dreams which will make life more beautiful. Hard work? Ingenuity? None of these things will improve your lot. As the author Richard Bach said: "I gave my life to become the person I am right now. Is it worth it?"

As women, we worked, made sacrifices for our children and families and practised good citizenship through genuine concern for our community. As best we could, we built a future for ourselves and others which would be protected from the hardest knocks of bad fortune. Now we see our rights and privileges that we in good faith built over the years crumbling away. Our rights to medical care, recreational education and community living are being destroyed in the name of the market system. As Jean Chrétien said on July 1, "It doesn't get any better than this." It sounded great when he said it, while the crowd cheered on Parliament Hill, but the next morning as a headline in our morning paper it had an ominous ring. Was that a warning, Mr Prime Minister? Is it really going to not get better, but get worse?

Literally hundreds of people have appeared before you at these hearings on Bill 96. There is no need for me to detail again the disaster this legislation will be for the city of Toronto at this time or the hardship, misery and deprivation some families will suffer as a result. You either know this and don't care, or you are unconvinced and further insistence will be useless.

Let's look at the situation from a practical, economic viewpoint. Basic economics states, "If you can't build a widget that people can afford, then don't build it." In the city of Toronto, this is exactly what has been happening. Rental units were too costly to build, people could not afford them, so substantially no new apartments have been built by private developers for 25 years or more. Develop-

ers and investors have warned us that this new legislation alone will not be enough to create a new boom in construction of rental units. None the less, people must have shelter.

Up to now the solution has been for the community, supported by the federal and provincial governments, to step in and provide suitable housing at a reasonable price. Both the senior governments have now rejected this solution. They, or you, are saying in effect: "We give up. We'll throw it to the private developers and let them do what they choose." Before you take this irresponsible step, I beg you, folks, take some time to look at the solutions being provided to reduce the disastrous effects market rents will have on the community.

These solutions are being recommended by all sorts of different groups. Some of them are feasible, some are not, but they all should be seriously looked at. There are many solutions being offered, because it is a multifaceted problem. They are being offered because we are a responsible community. We do want to not just protest, but find and facilitate workable solutions. Here are a few of the ideas which warrant investigation before — that is before — this legislation is enacted. Some of these are:

Public lands available for development could be leased to developers at low initial costs.

Loan and mortgage arrangements which would lower the risk and long-term cost to developers could be guaranteed by the government.

Assistance to municipalities to enable them to expedite the levelling of taxes between condos and rental units. This is a great injustice that should be changed immediately — not when we're able to but right away.

Tax relief for construction companies on both retail sales tax and GST.

Compulsory use of vacant buildings to provide low-cost housing for people who need it. Someone will be demonstrating on August 23 on this very subject.

Low-cost loans and other assistance to people who wish to convert part of their homes to rental apartments. We have the facilities there to provide more shelter for people. Why don't we use it?

Use of the rent subsidy money now provided to seniors to allow young people to adapt their homes to provide acceptable housing for their parents — a good source of funds. It wouldn't solve a lot of problems, but it would solve some.

Assistance to municipalities in expanding services to new housing projects.

All these solutions will not only provide short-term relief in the housing market but will strengthen our society and contribute to the solution of many other problems.

I beg you, folks, delay this legislation until you've considered some of these options and have given the community at large the opportunity to put into effect some of the changes that will ease the problems this legislation will cause.

Thank you for your time and consideration.

The Chair: Thank you for coming. The questions will start with the government caucus.

Mrs Munro: I wanted to pay particular attention to the third suggestion you made, the assistance to municipalities enabling them to come up with — I assume you're referring to a more equitable rate of taxation on multidwelling units as opposed to single-family units. Is that the kind of thing you're referring to there?

Ms Smith: Well, that's part of the problem. But it has also been determined by the mayor's committee on housing, called the stakeholders housing committee, reporting to Metro Toronto, that with condos and rental units in the same building, the same size and everything else, the rental units were being charged twice as much tax as the condos were. There's no justification for that.

Mrs Munro: Are you aware that the same kind of inequity exists between single-family residences, if we are comparing, and apartments? Certainly in the last municipal election the current mayor raised that issue as one that needed addressing. Obviously, by your being here today, that still is an issue at the municipal level.

The province has certainly given the municipalities the opportunity to address that inequity. I wanted to make sure you were aware of our sensitivity to that issue and our efforts to ensure that those inequities are balanced.

Ms Smith: Yes, I understand that. From what I can gather, from what I've heard, this will be addressed over a period of years. The municipalities don't feel they can immediately right this wrong. It's the old story: "We just can't afford to be fair." Probably this is a place where the government would be able to step in and assist the municipalities and also make sure the municipalities are doing that.

Mrs Munro: Certainly in previous days' hearings there has been the suggestion that both landlord groups and tenant groups should be putting pressure in the upcoming municipal elections directed towards this issue.

Ms Smith: Yes, but that's only one of the many very interesting solutions a lot of people are offering. I don't think we should zero in on just one and say: "We've solved it. We've done this."

Mrs Munro: Not at all. But I would suggest to you that when you look at those numbers, you will see that it would provide a very significant readjustment in favour of Ontario's tenants.

Ms Smith: That's right, it would, not sufficient to help to encourage developers to build, however.

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Mr Duncan: Thank you for your presentation. The argument around property taxation is compelling at first glance and I think merits careful consideration. The assessment until recently has been the purview of the province. In Bill 106 the government had the opportunity to compel municipalities to deal with it if they really felt seriously about that question, but they didn't, and I suspect that was for a couple of reasons.

First, there's the question of the flow-through of tax savings to tenants, particularly low-income tenants. If I'm looking at your recommendations properly, you're suggesting that it is those tenants who require more affordable

accommodation who are most affected by this bill, perhaps women especially who are seniors.

The other reason of course is the downloading that's going on. We've been provided with a number of statistics over the last few days by the government side. Yesterday I undertook to get in touch with the mayors who met with the Premier and was provided with the information they shared with the Premier that shows that in terms of property taxes, the percentage increase resulting from the download, based on 1995 tax rates, could be on average in the province 8.2%: outside the GTA 13.5%, and in the GTA it ranges from a low of 1.4% in Toronto, according to these figures, to a high of almost 13% in the Halton region.

The caution I share with you, and I'd like your views on this, is first, how do you disentangle this given that so much is in the air? The Premier and the Minister of Housing have agreed to review the issues around repairs and maintenance of current public housing stock, acknowledging that these numbers may not be accurate. How do you ensure, if we make that tax transfer, that the tax savings accrue to the tenants?

Ms Smith: I don't know, but I'm sure no one else can do it except the provincial government. I don't think you can get it consistent across the board unless the provincial government does it.

Mr Duncan: Precisely. I would submit that if the province were serious, they would have dealt with this issue in Bill 106. I suspect they didn't deal with it because they're really not so concerned about that. If they were, instead of trying to push the problem off on to municipalities along with a range of other problems they've pushed off on to municipalities and property taxpayers, they would have dealt with it in a substantive way. They chose not to. I see it as problematic, to be honest. Ensuring that the tax savings would accrue to tenants is a major issue, and I agree that the province is in the best position to ensure that.

Mrs Boyd: Thank you for coming. I won't belabour the tax issue, except to say that your main point was that seniors, whatever their circumstances, find themselves on more or less fixed incomes. Any prospective increase in rent, on top of what has already happened with user fees and all those sorts of things, obviously strikes fear into the hearts of those of us who know that our life expectancy is growing by leaps and bounds; what we may have planned for was a much shorter time than the time we're going to live. I think that is a very important point, because it tells us why seniors are so concerned, particularly at this time when there's been such an erosion in interest rates and many of those incomes are dropping at the same time these costs are rising.

It's good to hear you come and put this into the perspective of those on fixed incomes and the fact that there just isn't an ability to pay endless rent increases or improvements in your accommodation or to move when you're in that kind of circumstance.

I personally thought a lot of your suggestions were extremely interesting. Of course we know that this govern-

ment doesn't share your belief that it is a governmental responsibility to participate in the provision of low-cost housing, and that is a concern.

Would you like to talk in more detail about any of your other suggestions? You're not just criticizing; you're providing some possible solutions. I wonder if you'd like to expand on any of them.

Ms Smith: Many of them of course can be expanded on. Many of them have been advanced by other groups. The assistance to municipalities in various ways is being addressed by the stakeholders' committee.

The one that I think is particularly useful is the use of the rent subsidy money now provided to seniors to allow young people to adapt their homes to provide acceptable housing for their parents. That's my own idea. I think it's just so exciting to suppose that you could take the subsidy, which is going to be given to a senior anyway over a period of five years or 10 years, convert it into cash and give it to their children and say to them: "Make your house available to your parents. Later on in life when your parents are less able to take care of themselves and where they might have to look for an institution, they will be there in your home and you can help."

There are limitations. This won't work for everybody. Not everybody wants to live with their children and not everybody's children want to provide a home for them. However, there are places where this would work. It would be a wonderful idea and it would provide us with additional housing. So many of these suggestions are to produce additional housing and to prevent this disaster that comes with the increases in rental allowances, with the removal of rent control on vacant houses and so on. This is a sheer disaster. Anyone who is in this situation recognizes it as a terrible threat, particularly seniors, who might be faced with a 5% increase in their rent every year. We don't get a 5% increase in our pensions every year. In fact, I'm not up to date on it, but I don't think we get much increase in our pension any more.

Or take a very young person, who is looking at a decreasing work market, a market which from year to year will return him less and less money. We see this happening. Statistics say that average income in the city of Toronto is decreasing. How can we possibly look at this kind of situation when people will have less resources to depend on?

The Chair: Thank you, Ms Smith, for your presentation this afternoon.

BURTON-LESBURY HOLDINGS

The Chair: The next presentation is Burton-Lesbury Holdings Ltd, Robert Burton. Good afternoon, sir.

Mr Robert Burton: Mr Chairman, members, ladies and gentlemen, thank you for inviting me to say a few words. I've come in at the tail end of listening to some other people, and perhaps I could give the landlord's reaction to some of this.

I don't pretend to speak for the industry, but in our experience with two B-plus complexes in Metro Toronto of

about 280 units between them, our run-of-the-mill annual increase is somewhere on the order of \$5 to \$10, if we can get it at all. The current gap between our maximum legal rents and the actual rents we are collecting runs as high as \$230 or \$240 a month. The talk and the conversation among all of my colleagues about what Bill 96 will herald in terms of blowing the supposed lid off is that it won't. The market is in control of rents and the legislation is largely superfluous in terms of controlling rents because the legislated increases are simply not doable in the market.

I think that's a very important counterpoint to understand: We may be legally justified in trying to get and collect a \$1,000 rent on an apartment, but the market for that apartment is \$800 or \$820 and that's it. Nothing in the market is going to change with new legislation. Those are the realities of the economics in the late 1990s in Ontario, particularly in some of the smaller cities where they have large vacancy experiences, vacancy rates, and in many cases have significantly depressed rents.

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I'd like to return now to my presentation. I provided a written brief in early June, and I'm not going to read it to you. I want to touch on three things I mentioned in it and expand on them a little.

The first one, in line with what has just been discussed with the committee, is property tax reductions. With the advent of a new assessment system that is determined to be fairer to tenants there is bound to be a significant number of situations where there are tax reductions. As I've said, even in very tight markets like Metro Toronto, landlords can't get the current full maximum rent. You have to remember, and I don't know if I can emphasize it enough, maximum legal rent is the minimum cost-justified rent chargeable for a unit. In many cases over the years the formula for determining rent increases has been skewed to make sure that the full increase in cost has not been reflected in the increase to maximum legal rent from year to year. Eliminating it, which this bill proposes to do, effectively rolls back legal rent increases.

If a landlord is not charging the highest legal rent, if he can't do it, then it would seem that he ought to be able to recoup — and only recoup, no more — what the shortfall is between what he's legally authorized to receive and what he's actually able to receive out of any tax decrease. Beyond that, the tenant owns that benefit. I don't think there's any question about the fairness of the tenant being able to participate on that basis.

Unfortunately, the bill says that discounts in rent are going to be regulated, that the rules for determining them are going to be regulated, and nobody really knows yet what those rules will be. It's most likely that, unless those rules skew things, landlords are going to try and set the actual rent they discount to the equivalent of what maximum legal rent would be plus annual increases, simply because they like the consistency of pricing. The same apartment in the same building should not be \$100 more because of the accident that somebody has been there for five years as opposed to having been there for two months.

In that sense, I want to suggest that the concept of maximum legal rent ought to be retained. Just because it's in use for other purposes, I relabel it. I'm calling it in my handout something else; I'm calling it the highest legal rent, which is the maximum legal rent starting out as of the date the bill comes into force, plus the permitted annual increases.

As I've said, if the highest legal rent through a tax decrease becomes less than the actual rent, the tenant gets that difference. Between the old highest legal rent and the actual rent, that decrease belongs to the landlord. He's simply recovering back to where he would be if the market had permitted him to charge a cost-justified rent. I've put a little table in here to illustrate that. I think that's fair to landlords and it's fair to tenants. It's quite likely that tax decreases are not going to be terribly significant, but I think the notion of a landlord, because of other problems he's going to face in terms of keeping his property well maintained and in compliance with fire code and keeping the roof from leaking and so on and so forth, really is not in a position to be generous, for want of a better word, with what is going to be, one could say, a windfall in terms of taxes. That's about all I have to say on that item.

The next thing I want to talk about is an emergency eviction procedure. There isn't any. There hasn't been anything like this since the first landlord and tenant amendments in 1968, and I think it's vital that there should be something. Let me tell you the story about our tenant from beyond hell. When I start talking about this I want you to try and understand that we are the cops; we're responsible for all the households in our complex. We are responsible for their safety; we're responsible for their wellbeing in terms of the soundness of the building, in terms of the behaviour of other tenants.

This story goes back a couple of years. The problem started when we told this person that he could only park a car with our sticker on it because we only have limited parking. It triggered a campaign of vandalism and vicious vilification of our onsite staff and my brother, who was the property manager. An elevator was sabotaged. All the secured entry doors were disabled; the locks were Krazy-Glued and were impossible to use. There was a lit cigarette left on the broadloom in a hallway. Thank God — this dates back to before the fire code retrofit became mandatory — it was flame-retardant. We had done what we were supposed to have done anyhow, and we didn't have any fatalities. When he finally vacated his apartment, we found he had destroyed the windows, he'd destroyed the walls, he'd destroyed the ceilings and he'd written a letter threatening arson, threatening to torch my brother's home. We made a \$35,000 insurance claim, and that was low.

The problem was, we had our suspicions early on, but we didn't have anything approaching the kind of proof a court would require. In the meantime, someone could have been killed in an elevator; someone could have been killed because an ambulance or fire or police response to an emergency was delayed at a door; somebody could have

been killed in a fire in a hallway. We didn't have any significant opportunity at all to do anything.

I'd like to suggest that where the behaviour of a tenant poses a clear and imminent danger to others or to the property there has to be some sort of emergency process. We found that serving papers often makes the situation worse. The time between the papers being served and when the courts are going to get their hands on it and do something about it is a time when everybody is utterly helpless. Whatever the depredations that person wants to inflict on other people, he's free to do. In many cases, we, like many other landlords, are forced to literally pay these people to leave the buildings.

When I talk about an emergency eviction situation, the implication of what I've said so far is that it should be done without notice. Obviously, it's vital to make sure you don't go overboard and end up throwing people out willy-nilly when there isn't any real significant threat. But if there is a threat of safety to others or to the property, something has to be available. Also, the legal standard of proof has to be lowered to a reasonable apprehension. Often, these dangers, in this experience, arise and have to be coped with well before the evidence is available to do something about it with the current burden of proof.

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The alternative, if that sticks in your throat as being too arbitrary and too one-sided, is to devise a temporary banishment pending a hearing at which things can be thrashed out. It's somewhat messier in terms of mechanics, but it's fairer, and if there are constitutional problems with the *ex parte* eviction without giving anybody a chance to defend themselves, this is the solution to it.

I want to emphasize again, it's the safety of all the tenants in the buildings that I'm trying to impress upon you. This is what we have to protect. We don't want deaths, we don't want injuries, we don't want people harassed, and we can only prevent it with a change in this legislation that gives us an emergency process.

The last thing I want to talk about is discounts. I've mentioned it before. A case was decided late last year — the title of it is in the handout I've given to you — where the judge held that a discount was really a penalty, that when a tenant fell behind in his rent and the landlord tried to go after him for the full undiscounted amount of the rent, that was illegal because the discount, in a circumstance like that, was a penalty. I think this stands things on its head. I don't think it was necessary to make that decision in this case; it easily could have been decided for other reasons. But I think it's wrong to recast a discount for compliance into a penalty for non-compliance. It's rewriting the contract.

In many cases, the discount is there because it's impossible to rent for the full legal rent, but it's also there to induce compliance. It said in the case that the tenant was already obliged to pay his rent and therefore the extra inducement didn't have any legal significance. But I think it does. The difficulties in going after a tenant who doesn't pay his rent, the disruption to smooth and economic office procedure, the diversion in terms of time and attention that

causes from other legitimate concerns that should be attended to, are significant.

It's funny. If somebody goes into default and you start the legal proceedings, you can settle up with somebody and offer a discount and make all sorts of deals that aren't supported by this theory of legal consideration, the fair exchange of value. I don't understand why it shouldn't apply beforehand. It seems to me that this case stands the concept of a discount, and whether a discount is earned or not, on its head. If you're going to recognize discounts in the new bill, there's not much point in doing any of that if there's a case that says that it doesn't mean anything anyhow.

As I said, the reasoning of this is that if you have a sale of goods, where goods are on sale until Friday and somebody comes in on Saturday and complains that the sale's not on any more, according to this judge the sale is still on. If you earn an advantage, you're entitled to it. If you don't earn it, you're not. That's going to be part and parcel of the new bill. In light of this case, it's something you need to have another look at and perhaps fix a little bit.

Those are my remarks. If there's anything else you'd like to ask me about, from my written brief from June or any of this, please do.

Mr Kwinter: Mr Burton, thank you very much. Yours was an interesting presentation in that most landlords and developers who have appeared before this committee have been complaining that their rents are too low and that they need to have the ability to raise their rents because otherwise they can't survive. You're saying in your particular case you can't even get the maximum legal amount because the market won't pay it.

I just want to spend a minute with you on this case, because it really fascinates me. By your own admission, the rent you were charging, the discounted rent, was actually the amount the market would bear, even though the maximum legal rent was higher. As far as the tenant was concerned, the maximum legal rent was the amount he was quoted; you charged him the market rent and said, "You're getting a discount." It seems to me the judge is saying the market rent is the market rent. It doesn't matter what the maximum allowable is. That is it. In fact, you're penalizing him by saying, "Everybody else can pay the market rent, but if you don't comply, you've got to pay the maximum legal rent," which is actually a penalty. It would seem that if it was to be a true discount, you would take the market rent, which is below the maximum legal rent, and say, "I'm going to give you a discount of \$150 because you're not going to have your cat or you pay a day early," or whatever it is, and that would be the discount.

I don't think the judge has really set this thing on its head. I think what you had was an artificial level that you felt was the rent, but by your own admission you're saying it wasn't the rent, you couldn't collect that anyway. Do you have any —

Mr Burton: Yes, I do. In a perfect world, you're right. No question about it. We've suffered through 22 years of rent review and rent control, which has skewed so many things in so many ways that the logic you're presenting

simply doesn't cover the situation. As I said, the maximum legal rent is the minimum cost-justified rent for the unit. Renting below that entails not recovering costs or cost increases. That's the reality of the day.

The other reality I'd like to throw out to you is that when you have a tenant who doesn't pay his rent or who's a bad actor, very few rental operations are big and huge and institutionally geared to coping with these things. They set the small office on its head. Things have to get put aside. This has to be coped with. You start running up legal bills calling your lawyers and trying to get some advice to make sure you don't make the situation worse. You end up with all sorts of problems that arise from it. You've lost the revenue. Chances are that your recovery of the revenue at some later time is going to be quite incomplete. There are very significant costs to it.

Today, even though there are very, very low vacancy rates in cities like Toronto, nobody's going to rent an apartment unless you paint it and fix it up, so you're talking in the range of a month's rent to make an apartment ready for a new tenant. If you have to throw somebody out, you've lost that, on top of whatever rent you can't collect from that person. To be able to recover it in a situation like that doesn't strike me as foul or ill-motivated. If you say, "You agreed to pay the rent a day early," or "You agreed not to have pets," or "You agreed to behave yourself," or whatever the conditions are, it doesn't do any violence, to my way of thinking of what's fair, to say, "If you didn't earn it and it's significant enough that we are going to go after it," then it's fair. Obviously, if a guy's a day late, you're not going to jump on him with two feet. I think there are sufficient cases to say that the courts won't let that happen.

Mr Duncan: Thank you for your presentation. A number of landlord groups have made a compelling case about the legal maximum rent or what you call it. I do have a question. I don't mean to be argumentative about it; I raised this question with another landlord in a community where they don't have a shortage of housing. In places like London, Hamilton and Windsor, it's a different situation. It's a question of what I call the paradox of the landlords' positions I've heard.

First of all, on the one hand, with respect to rent control, we're told this is a market distortion, yet on the other hand a number of landlords have said the market is functioning quite well, even under this system. I've asked another landlord to reconcile that position. You started to get to it here in response to Mr Kwinter's question. Can you reconcile those two positions, that on the one hand rent control is an unnecessary intrusion in the market but on the other hand we're saying that in markets particularly where there is a low vacancy rate, the markets are functioning quite well?

The Chair: Be very brief, Mr Burton, because we're literally out of time.

Mr Burton: I'd like to simply refer you to materials that went to the Thom commission hearings. There was a submission, I believe it was a submission from either HUDAC or CIPREC, that said in the five-year run-up to

the imposition of rent controls in 1975, the rate of rent increases for rental housing was only 60% of the consumer price index, despite the fact that the mix of costs of a landlord was far significantly higher than the consumer price index. I think I'm out of time.

The Chair: I'm afraid you are. Somehow we got away on this one, but thank you for coming, sir.

Mr Burton: Thank you for the opportunity.

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ROOMERS' RIGHTS ORGANIZATION (TORONTO)

The Chair: The next presenters are of the Roomers' Rights Organization Inc. Please proceed.

Ms Mary Taylor: My name is Mary Taylor. I'm a director of the Roomers' Rights Organization (Toronto) Inc and the gentleman seated next to me is Mr Michael Baxter. He is a director and he has been a member since the summer of 1991. He is currently working on our latest edition of our newsletter, which will be dealing with some of the issues with which he will also be dealing this afternoon.

Roomers' Rights has been working for almost 15 years out of the Christian Resource Centre — Regent Park for the rights of rooming-house tenants and also those of people in the homeless, shelter-using and deinstitutionalized populations. Over and above this work within our official mandate, we are also very much aware of the concerns of the large population of public housing tenants in the neighbourhood surrounding our support agency.

What I want to do today is to express the concerns, as I feel I understand and have experienced them, on the part of the populations I have just spoken of, about some of the measures proposed in Bill 96. I am speaking here today not only as a member of Roomers' Rights but also as an executive and outreach worker for Home Front Public Housing Fight Back, a growing Ontario-wide housing coalition, as a regular volunteer with Out of the Cold and other drop-in programs for homeless and marginally housed people, and also as someone who is herself a tenant of a rooming house in the Regent Park area.

Due to time constraints, I will be dealing primarily with care homes today. We are concerned that the provisions on care homes threaten tenants who are vulnerable by virtue of advancing age, medical and psychiatric problems but also potentially involve everyone else in the single-room renting population. This is because we fear section 93 could open the door to any care home operator evicting any tenant by virtue of the lack of sufficiently clear definition of "level of care provided by the landlord," which this section states would be a ground for eviction if this tenant is deemed to no longer require this level of care. At the same time, due to the vagueness of the definition of "care home" and "care services," any rooming or boarding house could conceivably qualify itself as a "care home" and, in combination with the

eviction clause, work to jeopardize literally every tenant in this type of housing.

Some might argue that the tenant should have plenty of control and rights in relation to the all-important basic definition of "care" simply because the main section on care homes opens with the statement that there shall be a written agreement between the landlord and every tenant on the particulars of care services and that the landlord shall give the new tenant an information package containing "the prescribed information."

For our population, the problem with this idea is that it is not founded on an understanding of the real world context as we have been experiencing it. People who live in rented rooms find that they tend not to have long, stable tenancies. We find we are more likely to have to move from sitting tenancy to competing on the rental market for a new unit, and we find we are in this more vulnerable situation with a significantly greater degree of frequency than people in virtually any other type of housing. To say that we are more vulnerable is a significant understatement of the situation we face when you know something of the contributing factors.

Before we even look at Bill 96, we can look at the rental market and see a vacancy rate here in Toronto, where about 63% of the population are renters, of around 1%. Smaller cities in Ontario tend to have vacancy rates of around 4% to 6%. These may all look like small numbers, but rental tenants and their various advocates recognize that at around 4% vacancy rate, landlord and tenant power and rights are balanced about equally, while at closer to 1% we are dealing with a landlord's market to a very considerable degree.

Bill 96 introduces income disclosure, vacancy decontrol and effective eviction fast-tracking, the first two of which very greatly increase the difficulty of obtaining a new unit when it is necessary to vacate your old one, while the third contributes significantly to the issue-specific eviction concerns in relation to care homes, to say nothing of contributing significantly more to the overall insecurity and weakened bargaining position of our populations.

With all these factors combining to undermine the status and security of tenants, it seems much too likely that an unscrupulous care home operator could place pressure on the prospective tenant to sign an agreement stating that they were providing some type of support for them, even if this were to entail just dispensing medications for common ailments or catering to a special diet, to say nothing of possible leeway for claims to be dealing with problems in especially concrete-evidence-resistant areas such as the non-medical psychiatric realm. In many cases the prospective tenant might not need much pressure to sign such an agreement simply because they have absolutely no idea that they are signing away a substantial part of their right to resist wrongful eviction by so doing.

The definition of the rooming or boarding house itself as a care home would be subject to these same corrosive realities of tenant weaknesses even if it were to be circumscribed to some degree in theory by such things as the

"subject to regulations" passage in the definition of care services at the beginning of the act or the dispute mediation process which the act is proposing to set up.

Members of the rooming tenant community and our member advocates and others who are involved with our concerns would like to see this unnecessary cause for eviction removed unless, at the very least, we are furnished with definitions both of care homes and care services which satisfy our concerns as the present eviction clause presumably satisfies the concerns of the landlords of existing care homes.

Careful, precise definitions help to safeguard responsible members of the population while providing for a more expeditious resolution of problems created by troublesome individuals. Too vague laws perform what might be the most undesirable function possible in our society: They maximize the range of confusion and downright abuses that can possibly occur instead of minimizing them, especially when they fail to take into consideration the very considerable weight of living in a comparatively disadvantaged position with regard to these vagaries and abuses, as this in turn comes to bear on the actual ability of ordinary people to secure decent and affordable housing for themselves and their families.

The Chair: Sir, did you have some comments?

Mr Michael Baxter: No, thanks.

The Chair: Okay. We will commence with the New Democratic caucus.

1500

Mrs Boyd: Thank you for your presentation. I think this whole issue about what is or what is not the override in terms of people's rights in care homes has become a particularly important issue in these discussions, particularly as it applies to that rapid eviction problem. I thank you for giving your perspective on it.

We keep being puzzled because the government keeps claiming that the community care access centres are going to somehow be able to prevent any abuse of these sections in this act, even though subsection 2(1) of the act says very clearly, "This act applies with respect to rental units in residential complexes, despite any other act and despite any agreement or waiver to the contrary."

Although the next section goes on to say, "In interpreting the provision of this act with regard to a care home, if a provision in part IV conflicts with the provision in another part of this act, the provision in part IV applies," it doesn't resolve the concern you have, because the provisions under part IV, as you pointed out, are so vague that virtually any landlord could manage to claim in a boarding-house situation that they came under that particular part and because the area on the eviction says the tribunal has to take into account levels of care. There's nothing to require the tribunal to follow what the community care access centre says is the reality. There is no safeguard there, although the government keeps claiming there is. Is that your understanding?

Ms Taylor: One of the main underlying things there as a common denominator for all the points you can make is the tribunal, the mediation process. It seems to me there

are a lot of broad escape clauses in the process, for one thing.

Another problem is that we have yet to specify the fees that the tribunal will presumably be able to set for individuals and whether or not this will tend to be prohibitive to some extent for tenants. The property owner can afford the property they've living in plus the property they're renting, even if they are renting the rental property in order to help to keep themselves in their more basic expenses, whereas apparently only about one third of people who are renting accommodations could afford to own their own living situation.

The mediation is supposed to be triggered if anyone disputes anything. You're supposed to be able to automatically get it for that. It really does depend — they're supposedly going to take the rent registry material and keep a hold of it, but at the same time they can charge fees for people to come in and access that. It's all a question of whatever these fees are all about and how it relates to being open to various kinds of legal aid provisions and things the current system is open to, even to the extent that it is right now.

Mrs Boyd: We've heard from some of the legal services that of course the access to justice with respect to landlord-tenant matters has diminished quite substantially with the kinds of financial pressures that there are on the legal aid clinics. The whole issue of changing this to a tribunal is supposed to streamline it, but if it also costs more, then it becomes that much more difficult for people to actually access that justice.

Did you have any sense from the kind of vague language around the agreement that tenants would have to sign whether they could be waiving, despite any agreement or waiver to the contrary, other citizens' rights in order to try and maintain their accommodation?

I'll give you an example. Say the landlord said part of your agreement is that you must be in at 8 o'clock every night and you cannot have any visitors. Now that is not a normal tenancy agreement at all. It seems to me that you were talking about people coerced into agreeing to things partly because they wouldn't necessarily know that they could not agree, but also that they're so desperate for accommodation they could agree to very unreasonable terms and then find themselves in a situation where they were claimed to have broken the agreement and therefore have a fast-track eviction.

Ms Taylor: They find themselves in a situation where whatever it was they agreed to, the landlord could come to the point of claiming they no longer required that level of care, especially if it's care in a vague area. Also, relating to some of the things you were saying about restricting personal habits, here we've got all sorts of things like health care, rehabilitative, therapeutic. Some of that could be to do with psychiatric, could be to do with rehabilitative in the sense of people just sort of taking a rest cure, kind of like people who are just recovering from being exhausted, who are trying to basically fit back into the community even if it isn't strictly within a psychiatric parameter.

If people are induced to start talking about this whole care issue in relation to all situations where people cannot or do not choose to spend their money on a unit that's the minimum of bachelor apartment size, then we open up such a large can of worms for all sorts of psychiatric jargon and all sorts of presumptions about people needing to be cared for, and I don't really think it's a very good idea. We need much more circumscription because it's just a temptation. We have no idea how far it could go in relation to the rooming market as we see it right now.

Mr Gilchrist: I appreciate your presentation. It certainly is an important section of the act, but I think again — and it's come up once earlier today and I don't know if you were here; Ms Munro raised the issue in response to one of the presenters — it is very important to recognize that all of the standards being created by the Ministry of Health and community care access centres will take priority over this legislation. Nothing in this bill in any way subverts the Ministry of Health's pre-eminence in the role of ensuring that people have adequate care. That remains paramount.

The bottom line is that even if the landlord asks to relocate a tenant — and when it comes to fees that's a non-issue because it's the landlord who will have to be making the application — the landlord will pay the fee. The question will then be submitted to competent authorities.

The tribunal will not be acting as if they were medical doctors. The tribunal will take the recommendation of the CCACs. If there is more appropriate accommodation, if that is really the conclusion of the medical experts involved, then I hope you would agree with me that if there's more appropriate accommodation, if someone needs a different level of care, then that care should be provided. I don't think you'd want anything in this act that forces people to stay in a place where they can't get adequate care. I don't think you've said that anywhere in your presentation. But the bottom line is that those decisions will be made by competent medical authorities.

You comment about the need for definition in the act. Certainly "care home" and "care services" are defined and further elaboration on that would be found again in the Ministry of Health's description of what every one of those points means. I don't think you have to suffer under any concern that a landlord is going to be able to make arbitrary medical decisions; nor will the tribunal. The fact of the matter is, unless the case is proved absolutely that the landlord's position that a different level of care is necessary, then the tribunal cannot allow the relocation.

I think that by tying those two ministries as intimately as they will be, you've got the best of both worlds. You have the protection in the Landlord and Tenant Act in all other respects, but at such time as health care needs change, then you've the Ministry of Health through the CCACs, which will be able to take the role that they should have in making sure the appropriate level of care is available.

Mr Duncan: First of all, there is absolutely nothing in the act —

Mr Gilchrist: You know that's not true. Don't insult me.

Mr Duncan: — that requires that. It is not included in the act. You may try to argue that you're going to do it in regulation, but frankly you have no credibility on the issue.

Interjection.

The Chair: Mr Gilchrist, Mr Duncan has the floor.

Mr Duncan: You have no way of enforcing what you just said. What these people have talked about — there are two jurisdictions in the province of Ontario that regulate lodging homes today. One of them is Windsor and the other one, I believe, is Hamilton, if I'm not mistaken.

There was a report called the Lightman report that made a raft of recommendations with respect to the appropriate treatment and the appropriate care of vulnerable individuals, and we have seen case after case. You may comment. I helped write the bylaw in Windsor. It's one of two jurisdictions that has that type of protection, and frankly it's inadequate.

To suggest somehow that a landlord of a so-called care home, whatever that means — and you go through the definitions; we've gone through the definitions and it's unclear — has to take into account those considerations — it's not required, first of all. Second of all, I'm just envisioning the bureaucracy. Anybody who's tried to deal with the public guardian, for instance, or other organizations in government and deal with it in an expeditious fashion, I'll tell you, a number of these patients, clients, vulnerable individuals are in situations that require immediate remedy. They don't require a slow bureaucratic process that I am convinced is not provided for in this legislation.

1510

The view we have heard expressed by a number of people at these hearings throughout Ontario is quite the contrary to what the parliamentary assistant said, and we think it's part again of a denial of what this bill is all about. It's a bill that makes the vulnerable more vulnerable. It's a bill that not only does not provide additional protection; in our view, it takes away protections, protections that we all know — it's been studied to death — have not been in place.

I'm not suggesting for a minute that the problem is easily solved, but we think this is a step in the wrong direction, and it's my view, that what the parliamentary assistant said simply will not happen.

The Chair: Thank you, Ms Taylor and Mr Baxter. Unfortunately, the time has expired. On behalf of the committee, I thank you for coming this afternoon.

Mr Baxter: If I might comment, when we were offered 20 minutes, the presumption was that the time would be split between us, so I prepared a deputation that is quite different in focus from that of Mary Taylor. She was to be allotted 10 minutes and myself 10 minutes.

The Chair: Sir, I asked you if you wished to make a presentation. We're out of time.

Mr Baxter: You asked me if I wished to comment on what had been said. That is quite a different matter.

The Chair: Sir, I'm sorry. You misunderstood what I said.

Mr Baxter: Obviously I did, because of the way it was phrased.

The Chair: I'm in the hands of the committee, but we have other presenters.

Mr Duncan: I move that we add him to the delegation list at the end of the day.

Mrs Boyd: I concur.

The Chair: Is that unanimous consent of the other members? The members agree, sir, so if you wish to wait until the end of the day, we'll give you 10 minutes.

Mr Baxter: What time would that be?

The Chair: It could be 6 o'clock. There may be a cancellation, so it may be a little bit earlier, so I'd be here any time from 5:30 on.

Mr Baxter: Thank you. We were quite confused about what was happening.

The Chair: If I misled you, I'm sorry, but your time has expired.

KENSINGTON YOUTH THEATRE AND EMPLOYMENT SKILLS

The Chair: The next presenter is the Kensington Youth Theatre and Employment Skills program, Stephen McCammon. Good afternoon, sir.

Mr Stephen McCammon: Good afternoon. First of all, I want to thank you very much for providing the opportunity for the Kensington Youth Theatre and Employment Skills program to give a talk today about Bill 96. My name is Stephen McCammon, and I'm a volunteer there.

KYTES is an innovative program that serves 16- to 24-year-olds who primarily have lived life on the street or in shelters, and the purpose of KYTES is to provide these young people with a chance to make the transition towards a full participatory life in society. What that means really is help them with employment skills, help them with life skills, help them get stable housing and get on with their lives. These are young people who have typically either fallen or crashed through the cracks, if you will, of the system, and I think it's fair to say that they're not in any way stereotypically the bad, tough apples only or the sad stories of people who have had family abuse that has driven them out of the home. There are a variety of real complex individuals just as there are a variety of real complex individuals around this room today.

KYTES is concerned about Bill 96 out of a concern for the central importance of stable housing in these young people's lives. I have titled this little note that I offer you, "Are Street Youth the Canary in this Particular Coal Mine?" to ask you to draw your attention not only to the implications of Bill 96 for street youth and youth at risk but for young people and in fact tenants as a whole. As you may recall the story of the canary in the coal mine, the canary was used by miners in Wales some 100 years ago to indicate that the air wasn't all that right down there. I'm trying to suggest that as street youth go, perhaps other things go as well.

I want to outline from the beginning that there are positive things about Bill 96 from the perspective of an organization like KYTES. For starters, the tribunal proceedings will likely offer speedier, more sensitive and more focused expertise to resolve these kinds of disputes, and that may benefit both tenants and landlords. Second, I think the clear anti-harassment language in the offences provisions is helpful to both tenants and landlords and certainly to tenants who have concerns about the bad apples in the landlord bunch.

Having said that, there are some concerns about other aspects in relation to tribunals and the offences provisions. I hope that the bill, if passed as is, will be translated by resources to, for example, the tribunal so that it can fulfil its duty, as laid out in one of the provisions under part IX, to inform the public of their rights under the act. That means in particular vulnerable constituencies who plainly don't know how to assert their rights.

I am also concerned that the tribunal will provide speedier access to remedial action, but it may also provide too speedy action. The five days that a respondent/tenant has to file a dispute to an eviction notice may be just too short. I think it's fair to say that lawyers are often struggling to get their acts together and respond to complex legal matters in short order. Laypeople certainly are going to have that problem, and as I heard people talking about legal aid limits and so on, that's going to compound the problem, so that's something I'd like to draw to your attention.

Someone else has already mentioned the issue of cost of making an application to the tribunal. If you don't know your rights, if you can't afford your rights, they are not really rights at all.

There is also a provision — I think it's section 172 — which suggests that the tribunal may not hear evidence from a party if it doesn't pay money to the tribunal to hold in trust pending the resolution of the dispute. I just wondered if it wouldn't be worth having language attached to that provision that directed the tribunal to be cognizant of the possibility that the respondent, whether that be the landlord or the tenant, may not have the money, and that may be a genuine reason to allow for leniency there and hear the evidence anyway and answer the question on its merits.

There is also some confusion between a section that provides an offence of a tenant altering the locks, with fines up to \$10,000, and another provision in section 35 which suggests that the powers of the tribunal are limited to ordering that a tenant provide the keys and pay the landlord any reasonable out-of-pocket expenses. To the extent that there's some sort of conflict or confusion between those two provisions, section 35 and subsection 94(1)3, I direct that to your attention for your answer.

I'd also like to briefly note that there may be circumstances where a tenant legitimately needs to change the locks at short notice without time to ask the consent of a landlord. What jumps to mind right away is an emergency situation involving the breakdown of a relationship. We all know about spousal abuse and spousal violence in the

media these days. It would be a shame for a tenant to face a penalty for doing something that he or she had absolutely good cause to do. In that regard, I think the bill should provide that a landlord shall not unreasonably deny a tenant's request to have the locks changed.

The other positive aspect of the bill is that it suggests there is going to be enforcement of standards in terms of maintenance, safety and security, and I think that sounds quite wonderful. The caveat to that, of course, is that the government has to provide the resources to do that job, to make sure that investigations are conducted and landlords who fail to live up to the standards are called to account. In that way, I add, the Tenant Protection Act will begin to earn its name.

If I could move on to the problems in the bill, there are three broad areas that I think need addressing. No doubt you've heard about concerns about a couple of these areas or all three of these areas, if not once or twice, then many times. I will try to be short and persuasive. One problem has to do with privacy; the other has to do with the issue of deregulation or partial deregulation of rent controls and, last but not least, legislating exceptions to human rights protection under section 2 of the Human Rights Code.

1520

On the issue of privacy, whether you own or rent the place you call home, most of us would agree a man or woman's home is that person's castle. Whether you're living in Rosedale or Parkdale, Thunder Bay or Ottawa, in the mansion your grandfather built or a bachelor apartment with a view of the back end of a store, this is your kingdom, your place to shut out the world, to rest, to renew before another day of getting on with the work of lifelong learning and employment. The presumption in regard to any dwelling place is that, subject to narrowly defined and properly authorized exceptions, no one shall enter another person's home without that person's free and informed consent.

The Landlord and Tenant Act says as much. The emphasis on the general sanctity of the tenant's home is clear. Unfortunately, in an effort to clarify what are probably some genuine concerns about the business of being a landlord, the bill appears to weaken this fundamental right to privacy.

I suggest that some kind of language in the bill that says something to the effect of a tenant has a right to privacy in the reasonable enjoyment of a rental unit and a landlord may only enter a rental unit under specified sections, 20, 21 and so on, would help to stiffen up in the minds of the public, which is at issue and a concern here, in the minds of landlords and inform tenants of their basic right to privacy at the same time allowing for many of the specific rights of entry which you then go on to list in the subsequent provisions.

Having said that, I think there might still be a couple of clarifications made about when a landlord can go in to clean, which is not to say the landlord can't, but that it might be added that the landlord makes a reasonable effort to keep the tenant informed as to scheduling of cleaning entries where it isn't laid out in the tenancy agreement.

It's just putting a small onus on the landlord to do his or her best to make sure that the private sanctity of someone's home isn't interrupted randomly or at short notice while you're in the bath in the morning.

The last two points in regard to privacy: I think when it comes to the landlord's coming by and checking out an apartment for the purpose of renting it, there again the landlord might be put to just one little extra effort which is to make reasonable efforts to contact the tenant ahead of time by even an hour rather than what appears to be the intention of the provisions, which is simply to knock on the door. One hour's notice can help a great deal and ensure that someone, whether it be a widowed mother of any of us or whether it be a street youth who has just found his or her first apartment, feel that their home is genuinely theirs and that this kind of provision doesn't put too much onus on the landlord.

Lastly, and perhaps most important, subsection 21(1) lists a variety of written notice possibilities for entry into the unit. I think the last one speaks about, "For any other reasonable reason as set out in the tenancy agreement." I'm a little concerned that we would be putting tenants at risk of contracting out of their right to privacy when they're not necessarily informed of all the fine print on the contract, when they're not necessarily in a position, on the other hand, even if they are informed, to really negotiate with a landlord, especially if you understand that when it comes to the market in a city like Toronto or a city like Kingston or perhaps many smaller and larger communities in Ontario, the tenants are the ones who have far less market power than the landlord to set conditions.

The next general area of concern is of course rent control and the market-driven rents. In short, I want to jump right to the heart of the matter there from the perspective of youth and street youth in particular. They are the people who are going to be invariably facing the unregulated rent because of course they're going to be moving into vacant apartments. They're not going to be someone locked in. Every young person who goes out at one point, whether they leave home with parents' okay or whether they leave home with parents' curses, is going to be facing new apartments. They're going to be the ones with the fewest resources on average and they're going to be, quite frankly, sons and daughters of people around this room. Whether you can supply them with the cash or not, lots of other young people are going to be striding out there without a shot at a decent place.

I think that's a big concern for street youth in particular who are trying to get stable homes. It's absolutely essential to anyone's life. Imagine getting up this morning to come to work and not having fresh clothes hanging in your closet or a shower in which to wash or a telephone to call the office and say something's wrong.

Since I feel it's unlikely that I'm going to persuade you not to go the way of this deregulation, I suggest an alternative that will only go so far in helping, but at least it puts something back into the act. Those recommendations are at page 3 of my presentation.

I suggest that above and beyond the offences set out in section 194, particularly withholding vital services and failure to comply with a work order, you suggest amendments creating two new offences: "Failing to keep a rental unit at or above a minimum standard of safety, security and good repair," and "Failing to keep a rental unit at or above a minimum standard of safety, security and good repair while charging or asking an exorbitant rent." I think that would not stop landlords from asking high rents, if they so desired, not stop them from trying to make their places lovelier, but it would make them think twice about gouging someone for a crappy apartment, which is all too common today, I'm afraid.

In addition to that, if it was made part of the Minister of Housing's responsibility to assess and report annually on the homeless and the undersheltered, on the state of rental accommodation in Ontario, especially affordable housing and the question of the role of government in facilitating and/or providing affordable housing and do that in relation to the effectiveness of the new rent control/deregulation scheme when the minister tables the tribunal's annual report with the assembly, I think there would at least be a kind of ongoing public accountability over the question of whether or not this regime is going to work, why and what could be done about it in the interim.

Finally, in regard to the human rights protection changes, this amendment creates special risks to young people with no credit or rental history and it creates enormous risks to young people in receipt of public assistance, which is in the main the constituency served by KYTES, a constituency that KYTES helps to transform into employed, studying and eventually taxpaying citizens.

In his submissions to you, the chief commissioner of the Ontario Human Rights Commission has already ably articulated the problems with sections 36 and 200, and I believe he suggested alternatives or variations. We endorse those comments and recommendations. Let me add that young people struggling to turn their lives around need a shot at stable livable housing, period, and while that is beyond the ambit of Bill 96, it is perhaps not beyond the ambit of your government to do all it can to help that cause in other legislation, in the provision of public housing and so on.

Whatever the legal fallout, these provisions send the wrong signal to those landlords who already deny accommodations unfairly, and they send the wrong signals to good kids who deserve a shot at success and need a home and not just a shelter.

When issues of human rights and housing intersect, you can be sure you're dealing with vital and complex issues that require careful consideration. What questions may a landlord reasonably ask a tenant? How should these questions be posed and in what circumstances? These are issues that deserve a full and fair airing from the perspective of both landlords and tenants. It seems ironic then that in what may, in many respects, be fairly titled the Tenant Protection Act, the government is weighing in prematurely in such a heavy-handed fashion as to amend the Human Rights Code. Arguably, the government's actions in this

regard have all the appearance of choosing sides in a vital and complex relationship.

Let the properly constituted human rights board of inquiry do its job. Let the parties hear the decision and appeal if they feel it is necessary. Let the government consider the implications of the decision. If it appears unreasonable from a public interest perspective, act accordingly. But in the meantime, we ask you to withdraw those provisions or at least consider delaying their implementation until such time as the litigation has run its course and the public has had another chance to consider what direction is wise to take.

The Chair: Thank you, Mr McCammon. Your time has expired and we appreciate your coming and making your presentation to us. Thank you, sir.

1530

YOLLES PARTNERSHIP

The Chair: The next presentation is going to require some construction work, I understand. It's going to be a slide presentation and the presenter is Nancy Gillespie, who is speaking on behalf of Yolles Partnership. Ms Gillespie is an engineer and associate of building science services. The floor is yours, ma'am. Thank you for coming.

Ms Nancy Gillespie: My name is Nancy Gillespie and I'm an associate with the building science division of Yolles Partnership.

Yolles is a consulting engineering firm. It was founded in 1952 and has a long history in the design of high-rise structures, also residential, industrial and commercial. Some of the buildings you might be familiar with are something like the BCE Place, the Canadian embassy in Washington, the Bata Shoe Museum, which are all our structural design.

My particular responsibility has to do with the restoration of concrete structures, principally. That involves underground parking garages, balconies, also brickwork, window replacement, caulking, other miscellaneous building components.

As structural engineers, we have particular concerns about the safety and occupancy issues which have arisen because of the deterioration of these structures, and today I'd like to talk about some of the conditions we deal with on a daily basis, some of the remedial measures that are required and how this might affect the work of this committee.

We have today an aging inventory of buildings that require massive work to bring them into code compliance, quite apart from work which would improve them to today's standards. The living conditions in many buildings are deteriorating. The nominal maintenance items are postponed as long as possible, and those components that require major work are often undertaken only in response to city work orders. Even then, generally the work is what will get passed to lift the order.

We see buildings that can't provide residents with hot water during peak demand times. The 25-year-old boilers

are inefficient and occupancy loads now are often much greater than they were in the past. Piping in the high-rise building deteriorates over time, and at 20 or 25 years you get pipe bursts and damage to units and shutdowns of service.

Windows are another typical example. Many buildings were built with single panes of glass. At times of cheap fuel they were standard, but now they're inefficient not only from an energy perspective, but the increased humidity levels mean that you get ice buildups and damage to interior finishes, mould and mildew around frames, and with people who have allergies and sensitivities to that sort of thing it becomes a major problem.

Balconies have railings that don't meet the current code with respect to height and configuration. Railings are corroding, panels that form the railing are sometimes loose and posts are often rusted and no longer attached to the concrete. The reinforcing steel corrodes within the balcony slabs and pieces of concrete break loose and fall. It's a hazard to pedestrians and obviously makes the balcony structurally unsound.

One building that I deal with was circled with an orange snow fence and posted signs saying, "Danger, falling concrete." It's hard to believe that people are actually living in this building.

Parking garages: The older ones are poorly lit compared to present standards. That brings in safety issues for people using that garage, also activity that might occur in the garage after hours. Cracks in the concrete slab allow water to drip through on to vehicles and pieces of concrete come loose and fall.

The question is, how did we get there? At the time of construction, when Toronto went through its building boom in the late 1960s and early 1970s, we really didn't understand the behaviour of concrete over time. We looked at concrete and thought it was going to last forever. We ended up with some poor construction practices.

Prior to the building boom, construction used to shut down for the winter. No one even considered doing that sort of thing in January. It was too cold to place concrete, and then they discovered the effect of calcium chloride. Calcium chloride, or regular salt, is added to concrete and it causes it to set up faster so it can be finished before it freezes. Governments were quite keen to explore that possibility because it cut down on the cyclical unemployment that is endemic to the construction industry. Grants were provided to offset the low productivity of winter work and you had all kinds of structures built in the winter specifically, and unfortunately they incorporated salt as an additive. That has had the effect of just increasing any other problems you might have.

Concrete that didn't have the good durability at the time of construction and also had this salt added to it then, when combined with the road salt and water brought in by the cars, had the right mixture that right now we have parking garages that look like what you see in city hall, for instance, Terminal 1, that are going through continual repair. The same factors apply. You have an aging struc-

ture, a harsh environment and high restoration and maintenance costs.

I brought some slides today to show you some of the types of deterioration we see on a regular basis and the types of things that tenants end up living with.

We have here a brick wall. We have a roof problem on the other side of a parapet. You can see the bricks are bowed and there's a lot of water damage on them. Pieces of that brick fall and there's scaffolding installed below so that it doesn't fall on pedestrians walking below. I have a close-up of the situation. You can see where the brick is displaced. They've tried to do some caulking repairs that haven't helped because it really hasn't addressed the original problem of deterioration of the roofing system.

What that means on the inside — I don't know whether you can see that terribly well — is that the plaster and drywall all around the window is all bubbled and bowed. We took that out after this shot was done, and the black mould that was on all the framing was absolutely incredible. It was quite amazing.

This is a corner of a balcony railing. You can see the glass panel. You can see the rusting on the railing. The glass panel can come out under hand pressure and the rusting on the railing — that particular post wasn't even connected to the concrete, obviously not in code condition.

That's the underside of a balcony. You can see some dark patches there. That is a material probably from Canadian Tire that someone decided they were going to patch the end of the balcony slab with. It's not a slam on Canadian Tire, but it was an inappropriate use of a particular material.

The Chair: I shouldn't interject at this point but it's too tempting. The parliamentary assistant used to be part of Canadian Tire.

Ms Gillespie: I do apologize. There's nothing wrong with the product; it was an inappropriate use of the product.

The Chair: I couldn't resist.

Ms Gillespie: Fair enough. This is another balcony. They have tried to repair a problem with a condition on the top of the slab by putting on material laid on top. It hasn't taken and it's all coming off. The top of this particular balcony was so uneven that it was quite a hazard just to walk on.

That's a shot of a balcony railing. I don't know whether you can see how the railing itself is all crimped. It's not even connected there at the edge. That's a shot of the whole building, looking up. You can't see it, but it was taken to show the deterioration on the underside of the balcony.

We have a parking garage here. The ingenuity in trying to keep water off cars in parking garages is absolutely incredible; generally ingenuity, I might add, by the residents and rarely by the landlord. In this case they have put up plastic to try and stop water that's dripping through the slab from damaging cars. That again is a bit difficult to see, but we have some metal eavestroughing installed under the crack. These issues are intended to prevent

water dripping through and damaging the car. They obviously do nothing to repair the problem.

1540

This too is a bit difficult to tell. What we've got here is a deterioration on the top edge of the slab. The entire top of the concrete has lifted and the reinforcing steel is exposed. You can see the water ponding around the column, a serious structural concern.

A similar situation here: We have water that has ponded around the base of a column. You can see the rusting on that column, and that's reinforcing steel that is critical to the integrity of that column that is corroding.

When I speak of falling concrete, this is the typical condition. Water penetrates the slab and the reinforcing steel corrodes. Rust occupies approximately seven times the volume of the original steel, so when it forms it expands and pops off the concrete, a very typical condition in many, many garages.

An example of maintenance that just is not done on a continual basis: This is a drainpipe in a garage that is split, probably frozen in winter, probably plugged and full of debris, and this is a drain on the underside of the slab. You can see the condition of the slab and the rust stains. Obviously the drain hasn't worked for some long period of time.

That's the end of that. Every day I see the effects of lack of maintenance on buildings, and by "maintenance" I mean work that is going to repair the small problems before they develop into large problems. The situation of the brickwork: A repair to the roof would have saved a lot of problems down the road. However, without operating funds, small problems grow to be major issues which affect the living standards and the health and safety of the building residents.

We're seeing more and more structures now that are in an advanced state of deterioration to the point of becoming unsafe. Will they fall down? Very rarely. However, in the case of the balcony railing, it contravenes the clause in the code that limits the size of the object that is allowed to pass between the slab and the bottom of the railing. It means that a small child could fall through that. Where you get a railing being severely rusted, if something fell against it or someone fell against the railing, would it hold? In some cases I've seen they wouldn't.

The reason this condition has developed, we believe, is the fact that landlords are unable to recoup the cost to maintain the building. Costs are very substantial. The cost to recaulk windows, for instance, something as simple as that, to prevent water penetration into the inside, is \$30,000 to \$50,000. A major balcony restoration project, to deal with the types of balconies we saw there, is in the \$300,000-to-\$500,000 range. A major garage restoration can go up into \$1 million or more.

What's been occurring is that the repairs have been carried out to patch the areas, repairs that weren't durable in some cases, and they sometimes do more harm than good because they cover up the area until a very severe condition develops. Now these buildings need major work.

There are a number of garages in the city where large sections are simply closed because of falling concrete. So much water is coming through the slab that it's a hazard to be below it, so they just close the entire area.

Who benefits from the current condition? The tenants have low rents but cope with deteriorating buildings: damaged plaster, mould and mildew, balconies that aren't safe, poorly lit garages, falling concrete in the garage and water dripping on cars. Landlords see their buildings as a distinct liability. The land ends up being worth more than the actual structure on it.

From an engineer's perspective, we're asked to solve long-standing problems with minimal budgets. We deal with one aspect of a deteriorating building knowing that other issues are potentially unsafe. In some cases, we've recommended closures of balconies, the types you saw there where the railing is simply not connected. Unfortunately, this creates a host of other issues because it becomes a fire safety issue.

Some building departments have been conducting audits of the older buildings, resulting in work orders. It's very common. The city of Toronto has gone through and done quite a job on garages and balconies over the last few years. In many cases, the work is carried out more with a view to removing a work order and not to maintain the building over a long period of time. Why? Because such planned maintenance requires a long-term commitment by the owner, and this commitment isn't forthcoming in the climate of uncertainty.

So what do we do now? In our view, we provide a mechanism to recoup costs that are required to bring these buildings up to standard. The carry-forward provision in the bill is, in our opinion, a method of achieving this goal. We also create a climate that provides a sustainable return on investment that's driven by market forces. Investors predict this risk and can cope with it. What they can't cope with is a changing political wind and the resulting uncertainty, and removing this uncertainty, in our view, is critical to solving this current dilemma.

The Chair: Thank you. We have time for probably one or two questions.

Mr Duncan: Thank you for your presentation. The whole issue of the state of our rental stock is, I think, of concern to everybody, regardless of points of view with respect to rent control-decontrol-recontrol. Here is the question I would like to put to you, and I recognize it's probably not your area of expertise, so I'm not trying to put you on the spot.

We do not support the concept of getting rid of rent control. It's our view that the government's clearly is to create more rental stock and, I presume, to allow, in the government's view, landlords to recoup greater rents in order to reinvest. We don't think that is going to happen. We think there will be an increase in the stock of higher-end units. We think to compare the situation in the rental market today with what it was in 1975 and the period immediately prior to 1975 is really very tenuous at best — there are a number of circumstances — and to somehow factor them all out individually.

My question is this: Can a system of rent control, where an appropriate guideline is in place with an appropriate figure for capital, not provide for maintenance? We regulate the price of telephones. We regulate the price of water. We regulate the price of natural gas. Arguably, those are monopolies, but I would think that tenants, particularly vulnerable tenants, would argue that similar economic relationships exist.

Ms Gillespie: You're right that this is well beyond my expertise, which won't stop me from commenting on it anyway.

Mr Duncan: You should be an MPP.

Ms Gillespie: What I'm giving you here is a personal opinion because it really doesn't have very much to do with engineering. There are segments of our society, it seems to me, that have to be protected — no question. I'm not sure that rent control administered as a total umbrella is the way to do it. People have these buildings to make money. It's not an altruistic activity. They're there to make money. If it doesn't provide a rate return, they do one of several things: They unload it, they don't maintain it or they dump it and put their money somewhere where it will generate. It seems to me that if you can go and put your money into a mutual fund and get 10% without working very hard, then why would you have a building with all the other problems that are associated with it?

The Chair: I'm afraid we'll have to move to the next question.

Mrs Boyd: That's the question I keep asking: If it is so tough being a landlord, why do so many people want to be landlords and maintain that? Is it really a question of not being able to afford to maintain or is it a question of making a choice about the rate of income you're not willing to go below?

Ms Gillespie: I think that has a lot to do with it. If you have a choice between making a 2% return and making a 20% return, I would suspect that you don't have a lot of choice.

I can tell you about a couple of buildings that I deal with. One of them is a building that has been in a particular family for a long period of time. The newer people coming up can see that building and that's going to be their building. There's almost an emotional attachment to it.

The building is free and clear and has been for years. Their concern as to how much rent they can get — they have to make a certain amount to be able to maintain the building, but the decisions they make when they go and do repairs is very much, "Let's do it the right way, and yes, it's going to cost a lot of money, but we're going to have this building for a long time." That's a completely different mindset than a consortium of people who decide to invest in a building. That building must return a certain amount, and if it cannot return that certain amount, they put their money elsewhere.

I don't know whether that answered your question.

Mrs Boyd: Indeed it did.

The Chair: We have a problem in that we're out of time. I'd like to let you elaborate further, but the time has

expired. I thank you for taking the time to come to us and make your presentation. The clerk will help you with your slides.

1550

EAST YORK TENANTS ALLIANCE

The Chair: The next presenter is Mary Jo Donovan, who is speaking on behalf of the East York Tenants Alliance.

Ms Mary Jo Donovan: Good day. My name is Mary Jo Donovan. I'm the chair of the East York Tenants Alliance. I'm here to speak on behalf of the tenants of East York.

We all trooped down here a year ago to participate in what was called a discussion, which has proven to be an outright farce and an exercise in futility. The well-thought-out recommendations on behalf of tenants were to all intents and purposes ignored. We're back again for farce '97. I hope you're going to pay attention this time.

I usually try to avoid arguing with a closed mind, but I'm going to make a final attempt. We realize that our chances are slim, but we figured that if serial killers in Canada can have a faint hope, then perhaps tenants in Ontario may also have a faint hope, even though the killers probably have a better chance of a fair hearing.

Those who were not aware of it before are certainly in no doubt now that the tenants of this province appear to be without representation in this government. The proposed legislation is biased in favour of the landlord, and you even presume to amend the Human Rights Code so they can discriminate with impunity. You've given the bill a short title which is an outright lie. You've shown your utter contempt for the security and wellbeing of tenants by depriving them of the Rental Housing Protection Act.

At the very least, municipal governments should have some control over conversions, not only for the sake of good planning but in order to give some consideration to the large percentage of their populations which you have chosen to ignore. They should not be inhibited in this by bad provincial legislation.

Notwithstanding the alarming truth of all the above, for the sake of the 50,000 tenants in East York we feel duty-bound to submit the following.

A number of tenant advocates from legal clinics and tenant organizations have made excellent presentations, most of which we support. You are obligated to give them the attention they deserve, and I hope you're going to do that this time. We will not attempt to repeat what has already been very well said.

We hope we can prevail upon you to change the definition of "tenant" to the one which is currently in the Landlord and Tenant Act. The definition in Bill 96 could give rise to serious injustice because of the wording defining "tenant" as the one who pays the rent. In situations where the husband regularly pays the rent and for one reason or another departs the family home, will the wife then be permitted to assume the duty of paying the rent or will she lose her status as a tenant?

There are numerous instances and a variety of situations that could arise which would make this a serious problem for a lot of people, and there are a lot of unscrupulous landlords out there who could take advantage of a situation to rid themselves of a tenant merely for the opportunity of increasing the rent on a vacant unit. It is essential that the necessary changes be made to prevent these possible injustices.

If you choose not to retain the definition currently in use, then at least the definition of "tenant" in Bill 96 should be amended by adding, "'tenant' includes those who occupy the rental unit in a spousal or familial relationship, or as friends or partners of the tenant who pays the rent." People make all sorts of arrangements for their living accommodation and they have honourable agreements with each other that they don't necessarily feel obliged to put in writing. The oral agreements that exist between parties in a rental unit should be recognized by the landlord.

Regarding the tribunal, we are especially concerned that the TAG recommendations be included in the final package. I'm assuming you all remember who TAG is. They're the Tenant Advocacy Group, made up of lawyers, legal workers and others who have long-standing activity with regard to tenant law.

Having been deprived of our right of access to the courts, we should at least have some assurance that what replaces it will at the very least conform to the rules of natural justice and what we have come to expect from the common law. Considering what has gone before, we are justified in our suspicions that the tribunals could be stacked with political pals and that our pleadings may well fall upon the deaf ears of Tory hacks. We urge upon you to allay this suspicion forthwith. It's essential that somebody speak up and make sure the tenants are promised that this is not going to happen. We're concerned about a lack of equity and that the process in these tribunals may end up being just one more example of orchestrated tyranny of landlords over tenants.

TAG has clearly defined potential problems and made excellent suggestions. We're not going to repeat them all here and we haven't given you anything in a written form because it would just be repetitious.

The recommendations for the appointment, training and size of the panel are simply good sense and should be adopted. No fairminded person could fault them. The recommendations for procedure are eminently reasonable and should form a part of the final draft.

There should certainly be no filing fees or orders for costs. The majority of tenants are medium- or low-income and include the working poor, old-age pensioners and those on social assistance. The inclusion of fees and costs would be a grossly unfair burden on these tenants.

Section 167(1) requires written responses. Tenants who have not had the advantage of higher education and those with English as a second language will almost certainly lack the necessary skills to produce a comprehensive and persuasive written document in order to present their case. Even an oral presentation is difficult for many, and it

requires careful questioning by a sensitive and patient rent officer to extract the pertinent facts to reveal the truth of the matter and come to a fair decision. To expect the average tenant to prepare what could amount to an adequate legal brief indicates a failure to grasp reality.

To make matters worse, it is very likely that their submissions will be adjudicated by someone who has never experienced poverty or hunger or any of the other many deprivations which beset the underprivileged of this world. In light of all this, there must be some provision for oral responses and presentations.

Section 167(2): It should be clear to any thinking person that five days is insufficient time for an adequate response to the threatened loss of a home. A minimum of 20 days, as recommended by TAG, would not work an undue hardship on the landlord and would enable the tenant to cope fairly with the situation.

Section 168 is reminiscent of some of the worst aspects of the RRRRA. Section 168(1) sets out seven precise rules for the giving of documents, and 168(2) effectively ignores these rules and allows the party to pass on the information in any way they choose. Considering that one of the defining characteristics of landlords is mendacity, writing things like this into a piece of landlord-tenant legislation merely encourages bad behaviour. This is a serious loophole that has to be closed, because unscrupulous landlords are going to take advantage of it and do a whole lot of things they shouldn't do.

Mediation must be voluntary and the tenant must not be rendered vulnerable to coercion by the process. Tenants should have the right to evening hearings so as not to interfere with their work hours.

Section 172(3): The right of a tenant to be heard should not be dependent on the payment of money to the tribunal, especially when the sum demanded is the subject of the dispute. If the landlord claims the money is owing and the tenant claims it is paid, why should the landlord be believed more than the tenant? Why should the tenant be penalized while the matter is still being decided? If what is in dispute is a month's rent and a tenant on a fixed income has already paid the rent, it is unlikely that the necessary funds would be available for an additional payment to the tribunal.

Most but not all of the above comments are reflected in the TAG brief, which is extensive and divided into sections. It should be read in its entirety and carefully studied and understood. The validity of the points made should be recognized and the bill modified accordingly.

1600

It is to be hoped that closed minds will not prevent this, and that an unwarranted egotism will not continue to invalidate the intellectual process. The perfidious subjugation of tenants is just one more outrage in a long list of assaults on decency and equity. Harris, Leach and Dave Johnson, with the help of the backroom boys, are writing the worst horror story that ever came out of Queen's Park.

The culpable acquiescence of the back bench will not go unnoticed. You seem to think your Teflon skin will protect you indefinitely, but one thing Teflon can't take is

high heat. The action is moving to the front burner and the heat is being turned up to maximum. You had better be prepared: You're going to be scorched and peeled.

That's all I had to say today. I'll answer any questions.

The Chair: Mr Duncan, would you like to add to that?

Mr Duncan: I have a question or two. It comes down to what was at the heart of a lot of your presentation: the proposed rules under the new system for conflict resolution. With the kinds of amendments that have been proposed that you have talked about in terms of the bill, my view and the view of our caucus has been that the tribunal process in and of itself, if done properly, can actually work better than the current system. We will be proposing a number of amendments not unlike the ones you've talked about today.

If those kinds of amendments were brought about, do you think tenants' interests would be well served by a new tribunal system, as opposed to the current dispute resolution system that's in place?

Ms Donovan: Considering the short shrift they're being given in the court system right now, it probably couldn't be much worse, but there's no point in replacing it with something just as bad. The tribunal system has to be set up in such a way as to be not only fair but seen to be fair, and it has to be staffed by people who are not political pawns.

There's no point in having the thing if it's not going to work right. You can't let politics enter into this, and you have to make sure people tell the truth, because landlords lie, you know. They lie to each other and they lie to the tenants and they lie to the courts and they lie on affidavits, and nobody says anything about it. They're always believed. If the tenant says one thing and the landlord says another, it's the landlord who is believed. The rent officers are sitting there in their suits and the landlord comes in in his suit, and neither of them has probably been any farther than six blocks from Bay Street in their lives. They say, "This guy wouldn't lie to me, no, not at all" — just almost all the time.

There has to be some way of resolving this problem, because tenants run into it all the time. The landlord is believed; the tenant isn't believed.

Mrs Boyd: I can tell from the passion of your statements that you've seen lots of cases over time where tenants have been disadvantaged even under the current protections, so you're really worried about these new ones because you see this as just eroding their rights further.

Ms Donovan: There's that potential. If the thing is done properly it will probably be better, but if it isn't funded properly, if there isn't duty counsel there for tenants who need it, if there aren't all these things — I'm not an expert on this, but the TAG brief is very explicit about what's necessary. I'd advise you to read that.

Mrs Boyd: I have. What I'm trying to say to you is that you're not just saying the status quo is good enough. You're saying that yes, there should be changes, but they should be improvements for tenants rather than an erosion of their existing rights. One of the real issues is that every time we object to some of these provisions, the govern-

ment says, "I suppose you think the current system is just fine," and of course you don't, because you're talking out of real frustration for what doesn't work right now. But if we're going to change it, we should be changing it for the better and balancing that power between tenants and landlords in a more appropriate way.

Ms Donovan: All tenants want is fairness and equity. They don't expect to be given any advantage over the landlord, but we want what's fair, what's equitable. We don't have it and we've never had it.

Mr Gilchrist: I appreciate your coming before us again here today, Ms Donovan. I would disagree with you; I think there were quite a few submission made last year that have been incorporated, and I can tell you there are many more — in fact, many of the specific points you've raised here today — that as a result of submissions made to us in the course of the hearings, the way the system is supposed to work, are going to be presented as amendments next week when we come forward to do the clause-by-clause consideration. Hopefully at that time you will see the merits in having made your presentation.

I just want to speak very briefly to two points you raised. The very first one in your presentation talked about conversions. That is already a power available to municipalities. They can control that through their official plans; many do.

Ms Donovan: But will they be able to when you get through with it?

Mr Gilchrist: They still will, because this bill doesn't change that. Similarly on the tribunal, I've never heard anyone on the other side and I don't think we've ever raised it, or the previous governments: Ontario Municipal Board appointees are picked on the basis of having planning knowledge. People for this tribunal will be picked on the basis of having knowledge of landlord and tenant issues, strong interpersonal skills, preferably some knowledge of the law itself, not just having had a working relationship, and in particular there will be an opportunity for people to apply from across the province. This isn't going to be done by backroom types.

Ms Donovan: But none of this is in writing. There are no rules in writing.

Mr Gilchrist: Nothing like that is ever in writing.

Ms Donovan: There are no regulations written. There's nothing for us to see. Until we see something positive and definite, we're going to continue in this state of anxiety that we're going to get the wrong thing.

Mr Gilchrist: The sequence always is that the legislation comes first, then the supporting regulations are drafted, then you go through the actual rules of the tribunal. That was typical. That's exactly the way the OMB is structured, its regulations, the operating rules of the OMB; the Social Assistance Review Board is the same thing.

Ms Donovan: I'm aware of the process.

Mr Gilchrist: This tribunal will be no different. I can't assuage your concern except to say that we will expect the same level of competence from this board as we do the OMB or the Social Assistance Review Board.

Ms Donovan: But the reason for the concern is that your reputation has preceded you. That's why we're concerned, and nobody has said anything to allay that concern.

Mr Gilchrist: Hopefully, history will be the best judge of all this. Thank you for coming.

The Chair: Thank you, Ms Donovan, for your presentation this afternoon.

WOODGREEN COMMUNITY HOUSING COALITION OF VISIBLE MINORITY WOMEN (ONTARIO)

The Chair: The next presenter is Maureen Houlihan, who is speaking on behalf of WoodGreen Community Housing. Good afternoon, Ms Houlihan.

Ms Maureen Houlihan: Good afternoon. My name is Maureen Houlihan. I'm with WoodGreen Community Housing, which is the housing provider serving people who are chronically homeless, consumer survivors, newcomers to Canada and other special needs groups who have difficulty in obtaining affordable housing and maintaining it.

On June 26, 1997, we did a submission to the standing committee, together with the Supportive Housing Coalition of Metropolitan Toronto and Robin Gardner Voce Non-Profit Homes. I just want to draw your attention to that. We were put on the schedule individually as an agency, but the views and concerns we expressed in that submission are the same.

Today I felt that since our voice had already been heard, I wanted to share the floor with members of the Coalition of Visible Minority Women, because we consider visible minority women as having particular problems with access to housing and having discrimination issues they will face with these changes to the Tenant Protection Act. So I want to pass the floor on to them.

The Chair: Ms Houlihan, how you make the presentation of WoodGreen Community Housing is up to you. You can introduce the presenters.

Ms Houlihan: I'd like to start by introducing Elaine Prescod, from the Coalition of Visible Minority Women.

1610

Ms Elaine Prescod: Good afternoon, everyone. My name is Elaine Prescod. I'm the director at the Coalition of Visible Minority Women. The Coalition of Visible Minority Women is a multiservice organization which provides services for refugees, immigrants and visible minority women in Ontario. Among other functions, we conduct research and public education on issues such as racism and sexual assault, we provide language instruction and assist clients in areas of housing, immigration, the law and health care.

We have been instrumental in building a co-op at the lakeshore, which now houses 133 low-income families and seniors, single mothers with children. We were in the

process of starting another one, but that didn't come about.

When I look at Bill 96, I see some of the things that would affect us as refugees, immigrants and visible minority women especially, where women head up a lot of the households in Ontario. They need to have rental accommodation and be informed on how this bill is going to impact on their lives, because the majority of the women we see are of the low-income bracket, poor, and are often discriminated against in the areas of housing, accommodation, training and education, the whole gamut.

I have done a lot of research on this and I want to present you with what you will see on that paper, which we have presented. I will skip some of it because we have given you a whole research paper, looking at it from the areas of income discrimination, social and economic discrimination.

We first look at Bill 96 and income discrimination. As an organization which serves populations which are already subject to considerable discrimination in housing, we are very concerned about proposed amendments to the Human Rights Code which would essentially legalize income discrimination. We look mostly at section 200 as it pertains to us. It amends the Human Rights Code to allow landlords to use income information in tenant selection. The practical effect of this change will be to give landlords the freedom to disqualify low-income households merely because of their low incomes. This provision cannot fail to have a discriminatory effect on low-income individuals and families, and it will eventually place these households in a disadvantaged position relative to households where there's more money.

The most likely application of income information in tenant selection will be the use of minimum income criteria. Presently, a large number of large landlords and property managers use a variation of the 30% rent-to-income rule, which requires that prospective tenants pay no more than 30% of their income in rent. Low-income people cannot meet such criteria. As a result, landlords will be able to screen out low-income people from their buildings, making Human Rights Code protections on housing virtually useless. You can see there we quoted something that Keith Norton from the Human Rights Commission said.

Any suggestion that section 200 merely clarifies what kind of information landlords can ask for is simply wrong. In fact, section 200 of Bill 96 authorizes the use of income information. This goes far beyond allowing landlords to ask for income information but not use it in a discriminatory fashion. If the provincial government merely wants to make it clear that landlords can ask for income information, the legislation must state that clearly.

Similarly, it is incorrect for the government to suggest that section 200 actually strengthens protections under the Human Rights Code. It is important to remember what section of the code is being amended. Section 200 of Bill 96 amends section 21 of the Human Rights Code to permit the use of income information in tenant selection. The sole purpose of section 21 is to take certain discriminatory practices which would otherwise be illegal and make them

legal. Therefore, by amending the section to allow the use of income information, section 200 of Bill 96 effectively shields landlords from any challenges which might be faced under the Human Rights Code when they discriminate against groups such as social assistance recipients as well as low-income families.

The income profiles of refugees, immigrant and visible minority women: We did some research, and reading from what Michael Ornstein illustrates, refugee and visible minority women will be extremely hard-hit by any legislation which allows tenant screening based on income level. We have left some tables for you to see; I won't go through all the tables there.

Residency status and citizenship is table 2. If one considers women who are non-citizens, once again the degree of financial disadvantage is startling. In 1991, 61% of these women who were single and 47% who were lone parents had incomes of less than \$20,000. As I said before, they do not meet the criteria. Then we go on to look at the places of birth, where these people came from, and then by race. I won't bore you with all that, because it's written there in the deputation which we handed out.

The next part of this that I'd like to touch on is the exclusionary impacts of income criteria. If we take this analysis further and look at the exclusionary effects of a 30% rent-to-income rule on refugees, immigrant and visible minority women, it is not surprising that the pattern of severe disadvantage continues. You can go on and see we have put out a lot of percentages there: mothers born in Africa, black single women, black single mothers. These statistics are too stark to be ignored. Professor Ornstein, in his research, clearly illustrates the devastating impact which income criteria would have on these women. Then we look at the residency status, showing unattached women, men, female single parents, and the results are all the same.

As we go on, we look at those who had citizenship and were unattached — meaning they weren't married, they were alone — place of birth, the household type, and that again speaks on behalf of the income exclusion and discrimination.

One may argue that section 200 of Bill 96 is not proposing a 30% rent-to-income rule. However, when large landlords currently use income criteria, this is the cutoff they almost invariably use. This being said, whatever arbitrary cutoff — and such cutoffs are indeed arbitrary — is used, people and families with low incomes will invariably suffer severe disadvantage. Since refugee, immigrant and visible minority women are very likely to have lower incomes, allowing tenant screening based on income will cause severe hardship for these women.

The end result of section 200 will be to dramatically reduce the already meagre housing options for low-income families and individuals. In many cases these people will be left with no other alternative but to live in shelters for the homeless. In other cases, they may have to accept accommodation which is substandard and likely overpriced.

Women in abusive relationships will be placed in particularly difficult positions. By escaping the violence they face in their homes, they will run the risk of becoming homeless. In many cases, these women, particularly if they have children, will not be able to take that chance and will be forced to remain in their dangerous home environments.

For women who are newcomers to Canada, good affordable housing is the essential first step in a continuum of services they need to start their new life. Unfortunately, by erecting additional barriers in their housing search, section 200 will ultimately delay the integration of these women into Canadian society. Having come to Canada with the hope of a new life, many of these women will have their dreams shattered as they struggle to secure affordable, appropriate housing. Starting a life by yourself in a foreign country is difficult enough without the added stress of being disqualified from affordable housing because your income does not meet some arbitrary criteria set by the landlord.

1620

Discrimination is clearly a major problem faced by refugee, immigrant and visible minority women in their search for housing. They often face discrimination based on their race, their ancestry, their religion, their country of origin and, if they are receiving social assistance, their income or employment status. They may also experience discrimination if they are single mothers. Section 200 presents landlords with a tool to socially engineer their rental properties based on their particular prejudices. If they do not want to rent to single mothers, they can screen them out based on their incomes. If they do not want to rent to immigrant or refugee women, they can do the same. If they do not want to rent to black women, they can screen them out based on their incomes. While all of these groups are protected from discrimination in housing under the Human Rights Code, landlords will essentially be able to bypass these protections. Section 200 effectively legalizes discrimination in housing, as we see it.

I'm going to go now to credit checks, credit references and landlord references. Bill 96, in section 200, authorizes the use of credit checks, credit references and landlord references. While in most circumstances these represent appropriate ways of assessing an individual's credit-worthiness, some important qualifications are necessary. For example, newcomers to Canada who have very little English, most of them, will often have no Canadian credit or rental history and therefore will be unable to produce these references and records. In addition, many women leaving abusive relationships may only have credit records or rental references in their ex-partners' names. Thus, applicants for rental accommodation should not be refused on the basis of the absence or unavailability of credit records, credit references or landlord references. To act otherwise will severely compromise the ability of newcomers and women leaving abusive relationships to secure adequate housing, punishing them for what we term crimes they did not commit.

I have some recommendations. I won't go through all the recommendations because I want to give the other two

speakers the opportunity, but the recommendations are here.

First, we urge the committee to adopt the chief commissioner of the Human Rights Commission's recommendation that income information be removed from sections 36 and 200 of Bill 96. That's the greatest recommendation.

Next, we think section 200 needs to be further amended to ensure that people who do not have, or do not have access to, credit records, credit references and landlord references are not disqualified by landlords on this basis.

I have one little piece more which looks at the socioeconomic powers of Bill 96. The last section of this submission will reflect our views on the socioeconomic powers which Bill 96 imposes over women, especially poor women.

At present, many landlords are required to hold any property left behind by a vacating tenant and to let the tenant know how he or she can secure that property. Under Bill 96, the tenant loses this right. Once the tenant has moved out, all material goods left behind can be kept by the landlord or destroyed, thereby forcing the tenant into financial hardship as he or she would have to replace those items.

In addition, under Bill 96, landlords will be able to make rent increases, and tenants will have no say. These changes make it very difficult for tenants facing eviction, as they will not be able to dispute their eviction and at the same time stay in the apartment. How will the tenant be able to discuss her problem with the landlord, as it says in Bill 96, when the government will abolish the rent registry which allowed tenants to find out what rent was paid by the previous tenants?

Our organization often sees women in abusive situations, and we feel that Bill 96 does not protect these women in any way. As I said before, they won't have the right to change the locks on their doors to get away from an abusive partner. At the same time, many of these women are not aware of their rights and responsibilities in the landlord-tenant relationship. Bill 96 makes the situation even worse as the landlords, to us, seem to have all the power.

Finally, the forms that are used to gather information must be written in clear and plain English. A number of women heading up households face not only economic barriers but also linguistic barriers. Many newcomers to Canada are women who do not understand lease agreements and the various accompanying forms. We feel that this is another attack on low-income women in Ontario, specifically refugees, immigrants and visible minority women.

Do you not feel as politicians that you have a responsibility to protect those who are the most vulnerable in our society?

I want to thank you for listening.

The Chair: Ms Houlihan, you've indicated that you have two more presenters. I would like to inform you that you have four minutes. The floor is yours.

Ms Houlihan: Okay. I will put the floor to Jennifer Newby. We'll just have the one speaker.

Ms Jennifer Newby: Good afternoon. I'm just here to talk a little bit about the effects that this bill could have. Although it hasn't been passed yet, the income criterion is already being used and I have felt the effects personally. I tried to get an apartment in April of this year after finishing university and I was denied. I was denied on the basis of my income. This is what I was told. I tried to get the apartment with my partner, Harcourt Sinclair. We were denied on the basis of income, which brings me to my first point, which is simply that this is really going to have a very negative effect on students.

For people who are graduating from high school, colleges and universities, their incomes when they first leave school are not very high. I was coming out of residence, was looking for my first full-time, steady job. I had a part-time job, he had a part-time job, but we weren't making \$30,000 a year at that time so we were turned down. I have a real concern about how this is going to affect students, how this is going to affect young people trying to get their first apartment or trying to get an apartment at all.

Second, after I was turned down, because I wasn't told initially right away that it was based on my income, I had to stop and think, is there another reason? Is it because I'm black? Is it because I'm a female? Is it because I'm young? Is it because I'm a black, young, cohabiting female? These are questions that were raised and this is something I won't have an answer to because the landlord was able to say: "No, it's because you don't make enough money. You're a really nice person and everything." I really think it is, as she was stating before, a shield. If a landlord discriminates against me because I'm unmarried and cohabiting or because I'm black, I'm not going to know and I'm not going to have any recourse. There's nothing for me to do.

I'm just flying through this really quickly, but I want you to understand that this is something that does affect people.

Third, the fact that it is arbitrary: I'll just tell you now that in April, as I said, I had a part-time job, and it was the combined salaries of me and my partner that we were going to use to pay the bills in this apartment. Since April my income has all but tripled, simply because I got a full-time job in another field. Nothing has changed about me. I didn't go back to school. I've done absolutely nothing differently. Yet if I were to go back and apply for this exact same apartment now, supposedly I would get it and I would get it by myself. I wouldn't even need another income.

I really have a problem with this whole arbitrary idea, how they determine how much they're going to ask for in terms of yearly salary, the fact that they are taking this into consideration. This is something that can change at any point. Like I said, at that time I didn't have the money, according to them, and now I do. I have more than enough. I have so much I wouldn't want to live there anyway.

At the time, also, this individual was, "Well, we like 24 or we like 25." The numbers can go up and down accord-

ing to how he feels that particular day or what they want to say is a worthy income to live in that building.

I think the end result is something we really don't want to see in Toronto, something we really don't want to see in Canada. I really don't think we want to have this sort of ghetto mentality happening where if you make this much money you live in this part of the city or you live in these type of developments; if you make this much money you can live here; if you don't, don't even think about living here. I really want you people to please, please consider how this is affecting us, how this is affecting young people, just to be cognizant of that.

The Chair: Thank you for your presentation. I'm sorry we don't have more time, because this issue is probably one of the most contentious issues we have in this committee; it's been argued many times for and against. But we are out of time and we don't even have time to ask you questions. Thank you for your presentation.

1630

METRO NETWORK FOR SOCIAL JUSTICE

The Chair: The next presenter is Marnie Hayes, speaking on behalf of the Metro Network for Social Justice. Ms Hayes, good afternoon.

Ms Marnie Hayes: Good afternoon, everybody. I'd like to thank you very much for giving me and us the opportunity to present here this afternoon on this very important proposed legislation.

First of all, I'd like to begin by saying I'm a tenant and I have a personal stake in this legislation. I want you to keep that in mind. I'm glad I'm able to speak on my behalf. As well, I work in a legal aid clinic in the east end of downtown Toronto where we represent thousands of low-income tenants every year and we see many low-income tenants coming through our doors every day. I'm coming from that perspective as well. Also, as you mentioned, I'm speaking this afternoon on behalf of the Metro Network for Social Justice. We are a coalition of groups across Metro. Of course, Metro is comprised of more than 50% tenants, so we have a very specific interest in this legislation and you hearing us out about this legislation. Our coalition is made up of everything from legal clinics to faith groups to arts groups to neighbourhood centres, unions, youth groups, drop-ins etc, so many tenants as well as immigrants, refugees and people of colour.

We feel it's really important to raise some points with you because obviously this bill is going to have a massive impact on tenants in Metro Toronto. Let's be really clear about that. The decisions you make about rent control, evictions and the conversion of rental housing are going to affect family lives, affect people's ability to feed their children, put food on the table. Let's be clear. Your decision to move ahead with this legislation as it is cannot be taken lightly.

First of all, I would like to briefly speak about the context in which this legislation has been introduced, the overall context and agenda of the Tory government, as well as the context of the housing agenda.

I just want to point out that we can't take the Tenant Protection Act in isolation. We have to look at the whole package as what has happened since June 1995. Since the Tories came to power there have been major cutbacks imposed, major legislative changes, an agenda to privatize. I would submit that there's been one very major goal that this government has had in mind, and that is the idea to transfer wealth and power primarily from low- and middle-income people to wealthy people.

Just a few of the legislative changes, since we're talking regulations here, have been, for example, changes to workers' comp; changes to social assistance that have reduced the rights of low-income people, that have reduced benefits of low-income people; employment standards legislation which has significantly reduced the rights of workers in this province and increased the rights of employers. The vast majority of tenants — people on welfare and workers — obviously have less resources and power as a result of the legislation that has been introduced by the Tory government. The plan to reduce income tax has disproportionately benefited the wealthy.

The only conclusion one can come to after two years in power is that this government is doing everything in its power, as I said, to redistribute wealth and power to upper-income Ontarians and corporations.

Speaking on point here, the Tenant Protection Act will further erode the supply of affordable housing, have a devastating effect on the lives of low- and middle-income tenants and, as is the plan of the Tory government, it will put more money into the pockets of landlords. Correct me if I'm wrong, but that's one of the goals of this legislation.

The idea, as you all know, is called the trickle-down theory. It's an economic theory that says if you put more money into the pockets of the wealthy, they will create jobs, landlords will create more housing, there will be more wealth. The bottom line and the problem with this theory is that, time and time again, it hasn't worked. In Thatcher's England, in Reagan's US, in the current US, in New Zealand, where the theory has had devastating effects, trickle-down has had disastrous effects on the living standards of ordinary working people.

Having said that's the bigger overall political and economic agenda of this government, let's look at the housing agenda. The following is the housing record: The first thing this government did with respect to housing when it came into power was that it got rid of the law allowing basement apartments; significantly eroded the rights of people living in care homes; stopped building non-profit housing; stopped funding tenant advocacy groups such as the United Tenants of Ontario and the Federation of Metro Tenants' Associations. It then further looked into the possibility of selling off non-profit housing and when that didn't work out, when tenants started to fight back and when there were no deals to be made, those responsibilities of public housing were downloaded to the municipalities.

This legislation, the Tenant Protection Act, is going to complete the picture. It will further punish tenants, no doubt about it. It's a sad misnomer, the Tenant Protection

Act, because it's not going to protect tenants, it's going to do just the opposite. I want to speak specifically now about that.

Let's look first at the concept of vacancy decontrol, that is, phasing out rent controls, which is a pillar of the legislation. The bill states that when a tenant leaves a unit the landlord can raise the rent. This means that while rents will not be raised to market rent immediately, over a period of time the entire province will be raised to a certain rent, so-called market rent.

The government's own stats show that 20% to 25% of rental units turn over every year. A quick mathematical calculation would show that in about four to five years the entire rental housing market will be decontrolled and landlords will be able to charge whatever they want for rental housing in this province — not what the market will bear, but whatever they want. For example, say there's a 1% vacancy rate and someone's desperate for housing. If someone is desperate for housing it's going to be the first place they put their money. If there's a 1% vacancy rate and landlords want to charge X amount of dollars, tenants are going to pay for it; either that or be homeless. They do that and go without other necessities. The market is not going to control the price of rental housing, landlords will, once the market is decontrolled.

The other theory behind this legislation is that the landlords will build more rental housing if there are no rent controls. I'm sure you've heard this from other deputies, but this is patently not true. Landlords themselves have said they won't build, and the existing Rent Control Act exempts all new buildings. Where are the new buildings?

We currently have approximately a 1% vacancy rate, as I said. I don't know how many of you or your families or people you know have looked for apartments lately, but it's really hard out there. Rent control was created in 1973 by the Tories in the context of a very low vacancy rate and rental housing wasn't being built then, so that argument just doesn't hold true.

The other thing I want to raise is the issue of the Rental Housing Protection Act, a law, as you know, that was brought in in the late 1980s by the Liberal government. It was a very necessary thing at the time and remains a necessary thing because it protects the supply of affordable rental housing, especially in Metro Toronto.

Getting rid of the Rental Housing Protection Act is going to further tighten an already tight market and give more economic power to landlords. Furthermore, the most beautiful, desirable apartments are going to be the ones that are converted. I know you've got something in the bill that states it's okay, that tenants have a right to stay in the apartment if it is being converted to condo, but the thing is that there are ways to get tenants out. Over time, those tenants are going to move out and those units are going to be converted and there's going to be a permanent loss of affordable housing. To be responsible as a government, you really have to consider the RHPA as a very important thing for protecting supply.

Back in 1988, when the law was first introduced, as many of you will remember — the first law said that if you got vacant possession of the unit, you could convert. So what were landlords doing? Hiring motorcycle gangs — do you remember the newspaper articles? — and doing everything they could to get tenants out, harassing them. In one case that I worked on there was a letter that went around the building saying there was a boa constrictor loose in the building. If landlords want tenants out and their primary motive is profit, they're going to get them out.

1640

The rent registry: Getting rid of the rent registry is a travesty. Right now, we have something in the province that documents all legal rents. How will getting rid of the rent registry protect tenants, I ask you?

With respect to maintenance, one of the major, most important issues to tenants in this province — they pay good money, as we all know. They pay high rents to get in return a decent place to live. This legislation gets rid of orders prohibiting rent increases.

Government stats show that about 12,000 OPRIs have been issued over the last three years and about 80% of those have been complied with. As someone who has worked with tenants who have very stubborn landlords, this is not super-effective, but better than nothing, and that's what you're proposing, to have nothing in place. I don't see how the Tenant Protection Act addresses the problems of poor maintenance at all. Downloading responsibilities against municipalities — municipalities have said they're not going to do it, so it's really a provincial responsibility.

Finally, I want to raise section 200 of the Tenant Protection Act, which the previous two speakers spoke so eloquently about. Metro Network is extremely concerned about the fact that this government will allow, if this bill is passed, landlords to use income information about prospective tenants in order to not rent to them or to discriminate against them. This is a huge concern. I know that lots of people have spoken to you about this. I know that the chief commissioner of the Ontario Human Rights Commission sees the discriminatory effects of this section of the bill.

It's really scandalous, especially in the context of all the other things I've mentioned, for this government, even though a board of inquiry has been taking place for quite a long time to address this issue, to turn around and just put something in the legislation that allows landlords to say: "What? You don't make enough money? Sorry, we don't rent to you."

Obviously, if tenants don't pay their rent, there are lots of mechanisms in your new law for landlords to get them out. You've got to treat tenants like responsible adults. If they say they're going to pay the rent, they're going to pay their rent. As I said, it's going to be their first priority. Discriminating against them is not acceptable. This section will allow landlords to refuse housing to the most vulnerable residents in Metro, who are becoming more and more vulnerable.

Finally, this bill, while it's called the Tenant Protection Act, looks from our perspective, mine and many other people you've heard from, like the result of many meetings and many consultations with landlords. This will provide landlords with a legislative scheme that will clearly serve their interests. We submit that the tenants in this province deserve much, much more.

Mrs Boyd: Thank you very much. You're very eloquent in this cause. I would agree with you, not only about the harassment issues in the direct sense you were talking about, the examples we all read about and know about in terms of intimidation. I myself had a volunteer who worked in my organization who committed suicide because secure housing was going to be destroyed as a result of conversion. That's not an uncommon story for people whose only stability is the place where they have always lived. I think that's a very real issue.

It's not just a question of a few people who will be affected, because we know that without that protection, the way to make money is to upgrade and upscale and have that conversion. There hasn't been a great deal of talk about the conversion aspects from a lot of speakers, but I would agree with you that I think it's a very ominous piece of this iceberg that's really bearing down on us in this legislation. Thank you for being so eloquent about that part of it.

Mrs Munro: As time permits only a brief comment, I'd like to refer to what you said at the very end, that you thought this represented something that was purely in the interests of landlords. I can assure you, having heard landlords, that they feel the reverse is true. Perhaps one of the marks of a balance is that each side can find reasons to be unhappy with the bill, assuming that it benefits the other side.

I would like to ask you one question with regard to section 200, and that is what you perceive is the appropriate basket of information that a landlord should be able to ask a prospective tenant.

Ms Hayes: The landlord can ask the tenant how much money they make, but they shouldn't be able to refuse an apartment based on that. I don't know if any of you are tenants —

Mrs Munro: As a matter of fact, many of us are.

Ms Hayes: So you know that when you live in an apartment this is your home, this is where you live, and you don't want to be bothered by the landlord. It's like any consumer issue. The landlord is selling something to you and it's really none of the landlord's business. Many things about your life are none of the landlord's business. A lot of the questions that are being asked these days are far too intrusive. I don't know what you're getting at.

Mrs Munro: The credit checks, the reference checks —

The Chair: You can't get at it, whatever you're trying to get at, because we've got to move to Mr Kwinter. I'm sorry; we have to move along to share the time.

Ms Hayes: The bottom line is that if the tenants can't pay their rent, there are ways of landlords to get them out. They're going to pay the rent. They're going to make that

payment because they know that if they don't, they'll lose their housing.

Mr Kwinter: Thank you very much, Ms Hayes, for your presentation. I agree with a lot of what you've said. I just have a question. I don't quite understand the rationale in the statement that landlords under this particular act will be able to charge not what the market will bear but whatever they want. That goes sort of contrary to life. You can't charge something if the market won't bear it.

A Mr Burton was in earlier today and said that he can't charge the maximum legal rent because no one will pay it, so he's getting anywhere from I think he said \$180 to \$200 less than what he is legally entitled to charge.

Ms Hayes: Where's the apartment?

Mr Kwinter: I have no idea. I'm just going on what he said. He made this presentation to us today to say that he cannot charge because the market will not bear the rent. That's why I was curious about your statement. Maybe you can refute what he had to say. I'm just telling you that was his representation to us today, that he has 280 apartments, I think he said, and he cannot collect the legal rent because the market won't bear it.

Ms Hayes: I don't know what the housing market is like in Oshawa, but in Metro Toronto the vacancy rate is extremely low. That means that people are desperate and they have to take what they can get. It's less than 1% right now.

Basically, when I say the market cannot regulate the rent so that you can't say it's what the market will bear, it's because once there's no control landlords can charge whatever they want, especially if there's a lack. It's a necessity. It's not like dresses or suits or clocks. It's housing. It's their number one priority in their life. They have to get housing. If there is a very, very low vacancy rate and there's no rent control, landlords can charge whatever they want, so the market goes out the window. That's the point I'm trying to make.

This Mr Burton's apartments, I don't know if they're in Toronto, but it's funny, because everybody I ever talk to about the rent registry and legal rents, it's always being charged above the legal rent, not below. I don't know if that's an isolated case or not. I don't know.

The Chair: Ms Hayes, we are out of time. I thank you for your presentation on behalf of the committee.

1650

ONTARIO MANUFACTURED HOUSING ASSOCIATION

The Chair: Our next presentation is David Rice, who is speaking on behalf of the Ontario Manufactured Housing Association.

Mr David Rice: Mr Chairman and members of the committee, my name is David Rice, and I am here on behalf of the Ontario Manufactured Housing Association, known as the OMHA. The OMHA is an organization which represents about 110 mobile home parks or land-lease communities throughout the province and roughly

about 20,000 home sites in mobile home parks throughout the province. Our association represents the manufacturers of mobile homes, landlords and owners or developers of mobile homes, mobile home parks and land-lease communities.

I'm a director of the association and also involved in our family business, which is in the mobile home park business. We manage or are involved in about 2,000 home sites around the province.

The most significant point that needs to be mentioned here is that there are huge differences between apartment buildings and mobile home parks, and legislation in the past, we feel, has not addressed it properly. We think that you here as a committee have an opportunity to correct some of that. I want to go on to say right now that the vast majority of what is in the Tenant Protection Act, as proposed, we are in full support of.

There are two areas that we wish to address. I've handed out a fairly lengthy submission and if you get a chance I'd appreciate it if you could read it because it really sets out the background. I'm not going to follow along with that today because there just isn't time, but the two main areas of concern deal with the annual guideline for mobile home parks, the annual guideline rent increase, and also the capital expenditure guideline.

I'm not going to follow my notes because what it really comes down to is the fact that our members in our association have an average monthly rent of \$125. The problem we're running into and in the past, over the last 12 or more years that rent controls have affected mobile home parks, the problem has been that when you apply a percentage to a relatively low amount, in real dollars it's almost like a negligible increase. For instance, most of the mobile home parks in the province are ma-and-pa operations. They maybe consist of 50 to 100 or 150 mobile homes and have an average monthly rent of \$125. If you apply next year's guideline of 3% to it, that's a \$3.75 increase per month, or roughly \$40 a year, and in real terms that isn't a lot of money today. What we're finding is that a lot of these ma-and-pa operations are in dire straits. They're just scraping along as it is right now and they're desperately relying on you to address and correct a situation that may cause them to be out of business or certainly see an asset that for a long time has been in their family that erodes to being not worth anything.

What we propose — you know, you can choose a number but what we basically say in the report you have there is that with respect to the rent control or the guideline for annual increases, we really feel that it can't be a percentage, or if it is a percentage, it should be some multiple of an apartment percentage or the typical guideline. It's better to be an actual dollar amount. What we've proposed is that for mobile home parks we think the maximum increase annually should be the greater of either three times the guideline or \$50 a month, whichever is greater. If you take a \$100 rent and you say it would be three times three for next year, that would be 9%, or a \$9 increase, or \$50. In that particular case, if the market would bear it, it would go to a \$50 increase for next year.

The reason we do this is because what's happening is, if one argues that the guideline works for apartment buildings at 3%, or whatever the building operating cost index works out to be, given that the rent is so low, these people are never able to catch up to market. Over the last 10 to 15 years they have fallen well — I hate to use the words but it's almost like a chronically depressed rent. Somehow they have to catch up.

As you no doubt are aware, the way they act is proposed now — and we don't have any problem with this, really — it says that when a tenant moves out of a mobile home park, it doesn't go to vacancy decontrol. We understand that. We understand that a person has invested money in their home and they can't be subject to the whim of a landlord trying to rapidly get to market and therefore when they go to sell their home, their rent has increased a lot and they lose some value in their home.

We understand that, but we also recognize the fact that because the rents are so low, whereas in an apartment building you normally have a turnover annually of roughly 25% on average, in mobile home parks we're seeing a 7% turnover. One of the objects, as we understood it, of the TPA was to allow rents to get to market over time. It's going to take a long time for these ma-and-pa operations with low rents — our parks are one of these cases that was just mentioned. We don't even charge maximum registered rent because our maximum registered is above market, but we're sort of an abnormal case in our business. But the ma-and-pa operation is at maximum and they need a lot more. In most cases they need almost double the rent they're getting to be able to survive.

What we have outlined there are a few suggestions, some that are sort of a sliding scale somehow to arrive at a guideline that will allow these mobile home parks that experience a 7% turnover and no vacancy decontrol to be able to bounce up to market in roughly the same length of time as is anticipated or designed in the act for apartment buildings to do so. The best way to do that is to tie it to an actual number rather than a percentage, because the percentage is what has skewed things out of whack today.

Similarly, with the capital expenditures, we as landlords are very happy with the philosophy behind the capital expenditures cap, but again, when you're dealing with \$100 or \$150 a month rent, when you apply a 4% amount, it ends up being a negligible amount again. We similarly say we'd like you to address a dollar amount or a multiple of the guideline to make it something realistic. We've made a suggestion there. You might think it's ridiculous, but somewhere in there is something that would be workable. It would work and help the ma-and-pa operations' long-term investments.

Traditionally in our industry we cater more to first-time homeowners or to seniors, and I know you've heard from seniors, some from people who live in our communities. It's a very complex situation when you're applying rent control legislation that originally, we believe, was designed for apartments to a situation where a tenant is there at a lower rent and also has an investment in the community. For instance, in listening to the question earlier about

the Rental Housing Protection Act, we're landlords. We think it's great that the mobile home parks will be coming out of the Rental Housing Protection Act, as proposed. But you could turn around and use the same example as was given earlier about the motorcycle gang. If there was a motorcycle gang, all of our tenants, because they own their homes in our communities, would be absolutely glad that we could stop a motorcycle gang or somebody who was not the right person and wants to take advantage of the situation from moving into the community. I don't envy you, I really don't.

If able, I would love to be able to answer some questions. There are a number of items that we bring up in what we've given to you that go into a lot more detail, but we certainly appreciate the opportunity you've given here today.

The Chair: We do have time for questions, Mr Rice. Mr Gilchrist, I understand, has a question for you.

Mr Gilchrist: Thank you, Mr Rice. I appreciate the detail in your presentation. We'll certainly take back all of your submissions to the ministry. We've had the opportunity to hear from a number of your members across the province, and some have made similar suggestions. I don't know to what extent you've heard the results of those discussions. Let me ask you to rank in the overall scheme of things where the issue, for example, of out-of-pocket expenses for third-party-ordered water testing, sewage testing, municipal work orders, that sort of thing — if you would like to elaborate on that.

1700

Mr Rice: It's mentioned in our brief here. Again, it's a very odd situation which relates to mobile home parks. What we look at in those cases would be that we'd think that it should be passed through. It should be an item that could be passed right through because the tenancy agreement was entered into based on certain circumstances and the rent was such and such and all parties agreed to that. There could be, and there have been over the last few years, a few cases where an additional cost is being brought up that was never thought of. It certainly is necessary that the testing be done but we felt it should be passed through to the tenant.

Mr Gilchrist: Could you give me any other examples over and above those ones where your parks have been beset with any work orders from municipalities or other repairs or improvements?

Mr Rice: Most of the work orders are sewage-related or environmental-related, and I think that's addressed fairly well in the —

Mr Gilchrist: For example, have you ever been ordered to upgrade the roads to a certain standard or to put in sidewalks or to change the street lighting?

Mr Rice: I'm sure it's happened. I'm not aware. If I speak personally on our communities, no, we haven't. Our communities are Sandy Cove Acres, Wilmot Creek and Grand Cove. They're projects that won't even be affected by this legislation because we've put our own marketing controls on rent. It's a typical example where, as Mr Kwinter was saying before, the market will dictate what

the rent will be, and we've recognized that. We know that our maximums that we have are above what the market will get. When we lease a new site we say that we guarantee that for 20 years that rent will not increase more than 2.9%, regardless. We know that it works out and it's good marketing. It doesn't matter what this legislation says, unless the legislation says the guideline is less than 2.9%. That's the maximum that will be going through.

Mr Gilchrist: Thanks again for your comments.

Mr Colle: In terms of the mobile home or trailer parks, what is happening to the numbers using them in recent years? Is there any trending that's happening?

Mr Rice: We've found that throughout Canada, western Canada has a lot more. I think in British Columbia there were something like 2,000 new homes; in Ontario there's been 600 new homes in the last year. Meanwhile, Ontario has a vastly higher population and it should be exactly the opposite to that. There hasn't been a lesser usage —

Mr Colle: It's pretty well stable, you're saying.

Mr Rice: It's pretty well stable, I'd say, yes.

Mr Colle: The other question is, in terms of this bill here, I know one of the rationales the government has given is that it will induce more rental construction. Do you think this is going to be any kind of inducement in your industry to provide any more accommodation, mobile homes etc?

Mr Rice: I think it will, but there are lot more factors involved. We don't have the problem that apartments do relative to taxes affecting the decision as a landlord to get in and build more apartments. In mobile home parks we don't have that problem. Strictly, the answer would be yes. The act, as I understand the way it reads now and the way we interpret it, says new construction, any new site within an existing mobile home park that's never been built on before would be exempt.

The thing that is always a bit of a concern, though, is that because of the legislation there has been in the past, you don't know, as a landlord — the fear about what's going to happen in three or four or five years as other governments or changes happen. That's a fear. As the earlier speaker who was talking here said, some of that is making landlords hesitant to decide to build.

To answer your question, I'd say yes. I'd say with the rent control item taken out of it, it should be a greater inducement to go ahead and invest more and build more.

Mrs Boyd: It's nice to see you again, Mr Rice. You're always very eloquent on this subject. May I ask you what the length of lease is that people take in yours? You can just talk about yours because I know it might vary.

Mr Rice: In ours, we lease 20-year leases, but they vary. Across the board, they could be months, a year.

Mrs Boyd: Yours are the modular home, for the most part, I gather?

Mr Rice: Yes.

Mrs Boyd: What kind of an investment would people put into the building on that leased land, what average investment?

Mr Rice: It varies, because there is always the resale home coming up in these communities and resale homes could range from \$50,000 to \$100,000. New home construction in our developments basically range from about \$85,000 or \$86,000 to \$150,000 for the home, and then they'd lease the land.

Mrs Boyd: So fairly modest in terms of housing prices in an urban setting, but still a substantial investment for somebody who is going to be living on a fixed income.

Mr Rice: Right. But you have to appreciate, our parks are somewhat different because they're very highly life-style oriented and they cater to the Metro Toronto area. But members of our association could be in North Bay, all over, and in those situations it could be a lot less investment in the home.

Mrs Boyd: Do all of the parks charge, in addition to rent, a maintenance fee?

Mr Rice: No. That is really right across the board because it's been open to the interpretations of rent regulation over time. What we do is we quote a gross rent similar to an apartment building and that includes the maintenance, land tax, which is the realty tax on the unit that is being leased — not the house, because the house is owned by the individual — and our return on our investment. We have a gross rent, similar to an apartment.

Mrs Boyd: In yours, but that's not true in all.

Mr Rice: It's all across the board, it really is.

Mrs Boyd: In some of the presentations that we've had we've heard that the rent is much lower than the maintenance cost and the maintenance cost is very similar to a fairly upscale condo in an urban setting. It makes it hard to generalize, doesn't it, about exactly what is included in rent control and what isn't and how that works, if you're actually listing it in different ways?

Mr Rice: It does and I think that's the good thing about the legislation. It's going to bring it back more to the agreement between the tenant and the landlord. As that person moves out, there will be a new agreement. In mobile home parks the rent will be controlled but I think it will get away from the red tape of all of us, let alone myself, trying — and certainly with seniors it's a huge problem — to interpret and understand how the Rent Control Act today can be applied to mobile home parks and be understood. It's a huge job and I think that's a real positive of what we're aiming for here because it will be like a new agreement with every new tenant as they come in in the future.

Mrs Boyd: You're not concerned about the disparity between the circumstances of one neighbour to their next-door neighbour and what kind of affect that would have on resale values and so on?

Mr Rice: Yes, we are. In fact, that's a big problem in our communities because, depending when the person moved in, the rent could be this amount relative to another amount and the same person next door is saying, "Boy, I'm paying \$100 more a month in rent." It's a big problem, but today we can't correct that. What we're hoping is that with the new act, if we can move rents by a new person moving in and all of a sudden you're able to maybe

get somewhere up to \$50 more a month, then you could in effect — I'm not saying we would, but you'd be at least in a position that you could say, "Hey, we don't need to raise this one as much," because what we're really looking at, financially, from a business point of view, is the end product, the revenue and what's left at the end. I don't know if I'm being clear on that.

Mrs Boyd: But you're not going to have new places — if you've got 20-year leases, this isn't going to help you much, is it?

Mr Rice: The 20-year lease is really a marketing thing, because people do tend to move. On average in our communities people stay 12 years. Some of our communities are 30 years old and some are now just 15 years old, so we have the movement of previous units that were leased now coming available. Today the rent doesn't change. We hope now, with the act, that it will change to be able to come closer to market, and it may give us the opportunity to slow down increases or not increase. In some cases — I'm not saying we would — it would give you the opportunity that isn't there today to try to even things out.

The Chair: Thank you, Mr Rice, for coming and making your presentation to the committee.

1710

ELIZABETH ROWLEY

The Chair: The next presentation is to be made by two people, Patricia Moore and Elizabeth Rowley, who will be representing the Thorncliffe Park Tenants Association.

Ms Patricia Moore: I think there is a mistake. I'm Patricia Moore, but Liz Rowley, trustee from ward 2, will be making the presentation instead of me.

The Chair: I'm sorry. You'll have to identify who you are, please.

Ms Moore: My name is Patricia Moore. I'm from Thorncliffe Park Tenants Association. I will not be speaking any more. I am delegating it to Liz Rowley, trustee, ward 2.

The Chair: So Ms Rowley is going to be making the presentation on behalf of Thorncliffe Park?

Ms Moore: No. She will be making the presentation instead of me. I will not be speaking.

Ms Elizabeth Rowley: I will not be speaking on behalf of the Thorncliffe neighbourhood association, but I am a school trustee in East York, and that's why Ms Moore asked me if I would speak.

The Chair: I'm in the hands of the committee. Everybody agree with that?

Mr Gilchrist: I'm going to go on the record as expressing my concern. There is a waiting list, there is a priority, and when people jump ahead of the queue like this, that means someone else who put their name in earlier was deprived of that space. I'm not going to object to your being here, but I want it on the record that there are other tenants who clearly have a greater priority and a greater right. If Thorncliffe Park doesn't want to speak,

that's fine, but other people have a greater right to be here than you.

The Chair: Ms Moore, I'm going to suggest, to solve it so there's no problem here at all — that's going to be tough — technically the Thorncliffe Park Tenants Association should be speaking, but it is your time and you can bring whoever you wish to speak on your behalf but that person should be speaking for the Thorncliffe Park Tenants Association. If Ms Rowley, who happens to be a trustee, wishes to speak on your behalf, that is fine.

Ms Rowley: That's fine.

As previous speakers, and in particular Ms Mary Jo Donovan, who is the president of East York Tenants Alliance, indicated, there are 50,000 tenants who live in the borough of East York. Of those, a great many are children. A great many of them come to schools in East York hungry in the morning, and a good part of the reason for that is the cost of housing in East York, and for that matter across Metropolitan Toronto. Not all children who come to school hungry come from homes in apartment buildings or in rental accommodation, but a good many of them do, in part because of the large number of low-income people who live in apartments, which relates to the cost of housing per se.

My departure point here is that housing is a right, not a privilege, and that all Canadians and all those who live here, and in the first place children, have a right to live in secure, warm, safe surroundings and not to have to forfeit their breakfast in the morning, their lunch at noon and their dinner in the evening so that their parents can afford accommodation.

This also relates to policies, obviously, that the government has passed in other areas with respect to cuts to social assistance and a tax on people in other areas that have made the issue of rents a major issue on which hangs the wellbeing of a great many people.

It seems to me that the deregulation that's inherent in this legislation is a licence to steal for landlords in this province. In the first place, landlords will be able to raise rents — the sky's the limit — in part because unforeseen costs to landlords will be a clause which is invoked every time landlords feel they want to raise the rent. Also, it will be facilitated by the fact that there will be an end to the rent registry and the ability of tenants to find out what the rent was in a unit they are moving into prior to being able to move in.

Affordable housing stock per se will be reduced, in my view, in this province as a result of the legislation that you are about to pass, that the government is very likely to pass. Adequate maintenance of rental housing will be reduced and property standards will not be enforced as a result of this legislation. This legislation infringes on citizens' rights to privacy and to security of person, and in particular, I'm referring to those sections of the act which will allow landlords to enter apartments at almost any time to change locks and so on.

This legislation infringes on citizens' rights to impartiality and fairness, and I'm referring to the newly appointed Dispute Resolution Commission that will be

appointed by cabinet and by order in council. In regard to the comments that were made by one of the members of the committee earlier to do with the issue of fairness and impartiality, it seems to me that in this province we have had, certainly with the Education Improvement Commission and the transition team, enough experience with committees appointed by cabinet to know that they will be far from impartial and will be really loaded towards those which the government wants to support, in this case landlords.

It seems to me that this legislation is very much directed to meet the needs of a special interest group, mainly big landlords, and I would draw to your attention that in Metropolitan Toronto last year, when there were massive appeals of property taxes, very many of the large landlords who have an interest in this legislation sought to appeal their property taxes, some of them as far as eight years back. Those were municipal taxes, and they were also education taxes, and some of that money came right out of the classroom, which I'm sure the Minister of Education, and I hope the cabinet, will think about.

Where is the public interest in all this? I don't see that the public interest is represented at all in this legislation. To the contrary. I have to say that it seems to me that in the last two years we seem to have entered in Ontario a season to celebrate greed and to denigrate need, if you will. The attack on the poor and those on low incomes and fixed incomes has been shocking and appalling, and I think that this legislation will go a long way to continue in that direction when what's needed is a new direction to protect people and to protect children in the first place.

I don't see how the government or how this committee could conclude that the interests of children will be well served by this legislation. It's a clear conflict and a clear indication that if the legislation is passed, all of the fine words about the wellbeing of children are fluff.

With those few words, I urge the committee to recommend that this legislation not be amended and that it be dropped from the government's agenda.

The Chair: Any questions? No questions. Thank you for your presentation.

The next presentation is the North Toronto Tenants' Network, Lynn Carleton. Mr Clerk, would you call the name in the hall.

Mr Duncan: Mr Chair, there isn't a quorum present.

Mrs Boyd: There's no quorum present.

The Chair: We're going to adjourn for 10 minutes.

The committee recessed from 1719 to 1731.

NORTH TORONTO TENANTS' NETWORK

The Chair: The Chair sees a quorum. The Chair also sees the next delegation, which I understand is the North Toronto Tenants' Network, Lynn Carleton.

Ms Lynn Carleton: That's right, thank you.

The Chair: You have another person with you, Ms Carleton, if you could introduce that person.

Mr Herb Heimbecker: Herb Heimbecker, vice-chair.

The Chair: You can proceed and the floor is yours.

Ms Carleton: Thank you. Good evening on behalf of the North Toronto Tenants' Network and affiliated tenants' organizations in North Toronto. Here we are again, the same problem one year later. Our comments this evening are directed towards the Conservative members of this committee. We are not going to quote statistics to you. We've said them all and you've heard them all. The Conservative members know that this bill is going to pass. You know it, we know it, you know we know it.

You may ask, then why are we here? We're here because we choose to be standing up when you roll over us rather than lying down and making it easier for you. As many of us are aware, it was a Conservative government that brought in rent controls. North Toronto has a lot in common with some ridings in that we too have elected Conservative members. We represent the tenants who live in Al Leach's riding and Isabel Bassett's riding and Bill Saunderson's riding, and these are all swing seats. These are the Conservative seats to lose.

We understand that a Conservative government brought positive changes in the past, but this one is absolutely devastating and we can't tell you how much we disagree with it. Our former MPP, Roy McMurtry, a member of the Conservative Party and the Attorney General of this province for 10 years, was the member for Eglinton riding for 10 years and for 10 years he protected the tenants of North Toronto and all of Ontario and we rewarded him with three election victories.

But you know, we cannot award one Conservative MPP in the next election. Unfortunately Mr McMurtry, as Chief Justice of Ontario, may again get a chance to have his say when this legislation is ultimately challenged before the courts and thrown out as a violation of basic human rights. We're asking you to have some respect for this Conservative legacy and realize the damage this will do before tenants become prisoners in our homes.

This government has annoyed many people, actually quite a lot of people, including your own supporters: the firefighters, the teachers, the police, doctors, CUPE and tenants. But we as tenants do not have the clout of these groups. We do not have the resources and do not have the finances to organize. We are like a piñata at a party. We're hanging out there and you folks keep whacking at us. You have one year left.

The other two parties have made statements with respect to revising and rescinding some parts of Bill 96 after the next election — you know, the next election when you lose? You do know that you will lose. This government is like a one-trick pony. But before you go we urge you to take a second look at this bill, and if you're going to make these changes, understand the impact they will have on people who supported Mike Harris and his Common Sense Revolution. We're asking that you use your common sense and revisit some specific areas of this legislation such as, "It's not the right time."

Renters are people who rent until they can afford to buy. It may be short-term, long-term or a lifetime activity. The 90s is a devastating decade with costs and expenses

continuing to escalate. People are unemployed or underemployed and it not the right time to legislate higher rents.

It is not the right focus. The focus of this bill is on one group, the landlords. Bill 96 does not focus on benefits to tenants. Profits made by the landlords will come from the income groups who can least afford increased costs. It is not the right focus; it is not the right approach. Bill 96 chooses to subsidize some tenants at the user level rather than subsidizing building at the developer level. It is not the right approach.

The North Toronto Tenants' Network believes that it is not the right time, it is not the right focus and it is not the right approach to bring about the availability and affordability of rental units. Please do not force us to be scrambling for apartments out there.

As I said, we are not prepared to hear historical statistics. We want to look to a brighter future with secure, fair and affordable housing. Perhaps we all need to take a different look at this situation.

Mr Gilchrist: Turn the camera off, Chair.

The Chair: Turn the camera off, please.

Mr Duncan: Why would the camera be turned off?

Mr Gilchrist: Because it's a demonstration, Mr Duncan, and you know full well demonstrations aren't allowed. Quit posing.

Mr Duncan: It's a legitimate expression.

Mr Gilchrist: Oh, quit pandering.

The Chair: The meeting is recessed for 10 minutes.

The committee recessed from 1737 to 1744.

The Chair: Okay, we'll reconvene the meeting. Do members of the committee have any questions of this delegation?

Mrs Boyd: Whose turn is it? Aren't you on a circuit?

The Chair: We can ask you, Mrs Boyd, if you have a question.

Mrs Boyd: I do. I'm quite curious about the third point in your presentation: "It is not the right approach. Bill 96 chooses to subsidize some tenants at the user level, rather than subsidizing building at the developer level." Can you explain that? I'm sorry, it's the end of a long day, but I don't get it.

Ms Carleton: Do you want to explain it, Herb?

Mr Heimbecker: We all know what subsidies at the user level are, where there's subsidized rent for people whose income won't stand the normal charge. That's subsidy at the user level. The other one is we're taking the approach there should be more development of additional high-rise housing, and to do that the government should encourage it by a tax concession while in construction — not after; once they start moving people in, full taxes apply. But they have no progressive tax as they construct. Some sort of breaks. The government is good at fine-tuning it so it won't take cash out, because they're not getting it anyway. They just start getting it a year later, instead of instantly.

Mrs Boyd: That's similar to a suggestion we had earlier today from the Older Women's Network. One of their suggestions was that if the government would, for example, provide some government-owned land that wasn't

required any more, rather than charging market value for that, allowing that to happen to encourage the land costs, which are really quite high in some municipalities. Another of their suggestions was not having the PST or the GST on the building materials for someone who is prepared to build low-cost housing, trying to work it that way, as well as this issue around the differential between residential taxes on single-family and multifamily dwellings — a multipronged approach. I gather you think it should be focused in that direction, as opposed to the other.

Ms Carleton: Absolutely.

The Chair: Thank you for your presentation.

Ms Carleton: Thank you. It's too bad you missed the presentation. If I could just say one more thing —

The Chair: No, you can't, ma'am. The presentation is finished.

Ms Carleton: That's okay. It's unfortunate you don't have a sense of humour, but that's what this government lacks and that's what we're fighting.

The Chair: Thank you for coming.

PETER TABUNS

The Chair: Mr Tabuns is the next presenter. Peter Tabuns is a councillor with the city of Toronto. I might add, sir, the Speaker has ruled in the Legislature, and it applies to the committee, that buttons are not allowed during committee hearings or in the assembly, so I'll have to ask you to remove the button.

Mr Peter Tabuns: I'll take this button off. Do you have one as well, sir? Do you have a button that you're wearing?

The Chair: You're not allowed buttons that are demonstrations, sir.

Mr Tabuns: Is this a demonstration? Extraordinary.

Thanks for this opportunity to address your committee and to have the last word on rent control. I gather this is the last deputation. I think many people are considering Bill 96 to be a fait accompli and are resigned to accepting it.

I think this is one of the most damaging things this government has done, notwithstanding the megacity legislation and notwithstanding the cuts to welfare, notwithstanding the downloading. I think your impact on tenants is going to be devastating. I, and I'm sure my colleagues at Toronto city council, will not stop fighting this. If the bill is passed, we at the municipal level will be watching very closely to track its impacts and making sure the public is well aware of those impacts. After all, with the devolution of housing and public health responsibilities, we at the local level will have to deal with those impacts.

Today, I would like to talk to you about the effect that this legislation will have on the lives of individuals and families who live in and depend on rental housing. These people make up almost two thirds of the population of the city of Toronto and over half the population of Metro, the proposed new city of Toronto. As chair of the Toronto board of health, I'm very concerned about the effect the

proposed legislation will have on the health and wellbeing of tenants, especially tenants who are already struggling to make ends meet and for whom their housing is the key stabilizing factor in their lives.

1750

Many of my fellow speakers and people submitting written submissions since the proposed Tenant Protection Act — and I find it extraordinarily badly named — was introduced have told you that the bill will have three main negative impacts on the lives of tenants. First, rents will increase for both sitting tenants as well as those who move for one reason or another. Second, many tenants will be forced to move from their homes to cheaper, perhaps substandard housing. Third, the changes will result in lower maintenance standards and poorer upkeep in existing rental buildings.

I'll discuss the impacts in each of these areas.

First, increased rents: In addition to the annual statutory guideline, which is set at 3% for next year, landlords can get an additional 4% for capital repairs instead of the 3% they now get. They will also be able to charge, without limits, increases for operating expenses, and repair costs that have already been paid for, known as "costs no longer borne," will continue to be included in the rent for all time. It is possible that rents for sitting tenants could increase by almost 10% in the first year, just taking into account, within Metro Toronto, within the megacity, the restructuring of the city and the downloading of social services. Rents will also increase due to a lack of accountability in the way rent increases are spent, the lack of control over unnecessary renovations and the elimination of the provincial rent registry.

A group that's very vulnerable to rent increases is social assistance recipients. Approximately one third of all renters receive social assistance. In October 1995, the Ontario government imposed a 21.6% cutback on social assistance benefits, which include both shelter allowance and basic allowance for food and clothing. As a result, a single person now gets only \$325 a month for a shelter allowance, while a family of four gets \$602 a month. As you probably have heard from previous deputants, an average Toronto bachelor unit rents for \$545 and a three-bedroom unit averages \$1,308.

Our data show that thousands of low-income families are already paying more than 50% of their income on rent, which is one of the reasons you have increased crowding and demand at our food banks. As a result of higher rents, some tenants would be forced to cut back on other costs of living, such as suitable clothing and nutritious food for themselves and for their children. Last year the Daily Bread Food Bank saw a 54% increase in use over the previous year.

Many tenant households, after this act goes through, would face an increase in domestic stress and family violence. In fact, you've taken legislative steps to deal with family violence, but what you're doing with this legislation is fuelling the forces that cause it to happen in the first place.

The decontrol of the rents of vacant units will allow landlords to charge whatever they want to a new tenant. Given the estimate that each year about 25% of Ontario tenants move, in a few years most rental units in this province will be decontrolled. Over time, the choices of affordable units on the market will be severely limited, especially given the demise of the non-profit housing program in the province. This in turn will increase the stress on tenants, who must make difficult choices about living expenses.

The second issue I wanted to discuss is forced relocation. For tenants who cannot bear the load of a drastic rent increase, the only option is to move to a place they hope will be cheaper. With so many tenants on social assistance or paying more than 50% of their income on rent and therefore on the brink of economic eviction already, we will likely see a staggering number of households forced to move due to substantial and immediate rent increases.

As has been argued by many, the decontrol of vacant units and the elimination of rental housing protection legislation gives landlords an incentive to harass tenants out of their homes if they believe they can collect a higher rent, sell the unit as a condominium or convert the building into luxury apartments at much higher rents. This incentive thereby leads to the displacement of even more tenant households. We, in the city of Toronto, have even had the ugly experience of landlords who hire biker gangs to get rid of unwanted tenants. I, as a tenant, have not had that experience, but in the mid-1970s I had the experience of a landlord deciding to get rid of my household and the households of my neighbours and the units we were renting and deciding to sandblast the units while we were living there. As you can imagine, having crews sandblasting through, filling our units with dust and sand day after day, month after month, drove many people out of their households. There are scrupulous and decent landlords. There are a lot of landlords who would not fit that description and you are leaving tenants at their mercy.

Some will turn to substandard rental units for shelter, such as unlicensed rooming houses or illegal basement apartments, and will suffer from poor housing conditions such as inadequate heat, dampness, lack of natural air and light and a general lack of health and safety provisions. Others will choose to double up, leading to overcrowding and stress caused by undue noise, lack of privacy and loss of dignity. Still others, of course, will become homeless altogether and enter a cycle of unemployment, poverty, violence, lack of nutrition and related health problems, possibly ending only in death due to exposure.

In 1995, Metro hostels division reported that economic evictions and family breakups were the most common reasons for hostel use. Already we have seen eviction applications in Metro increase 30% from 1993 to 1996. We can't allow these trends to continue and escalate as a result of this proposed legislation. Quite surely, if you pass this legislation, those trends will escalate, they will increase.

Third, poorer housing conditions: Under current law, landlords who do not comply with city orders to make

repairs could receive an order prohibiting rent increases, an OPRI. These landlords are not allowed to increase rents until repairs are done. The city's experience has shown that OPRIs work. In the majority of cases, landlords had carried out the repairs before the OPRIs took effect. We have found that the use of OPRIs is the single most effective tool to get landlords to do the repairs on their properties.

However, the proposed law is eliminating these orders, making it much more difficult, expensive and time-consuming to bring needed repairs into effect. It has been the city of Toronto's position that landlords be required to create capital reserve funds for capital repairs. These funds should come out of rental revenue, without imposing extra charges on tenants.

Suitable, well-maintained housing is conducive to the social and physical welfare of people, while substandard housing is unsafe, unhealthy and affects people's ability to live productively and to succeed as contributing members of society. Governments owe it to consumers of rental housing, just as we do with many other consumer products, to ensure that this housing remains safe, secure and does not contribute to undue health problems for tenants and their children. Tenants should also feel that they can complain about legitimate maintenance problems without fear of harassment, in the knowledge that reasonable repairs will be made in a reasonable time.

Food and shelter are the two basic elements necessary for survival. For many people who are juggling the demands of their work or education, their children or other family or community commitments, housing is the one stabilizing factor in their lives. The wholesale disruption this legislation could cause in terms of increased living costs, relocation or a deterioration in housing conditions must be viewed in terms of the health and wellbeing of the individuals being affected. I urge this committee to consider these factors before allowing this legislation to come into force. Thank you.

The Chair: Thank you, Mr Tabuns. There are questions, I believe.

Mr Gilchrist: Thank you, Mr Tabuns. Let me ask you something. Would you agree with the premise that clearly, if your greatest concern is that it be affordable for those with the lowest income, providing affordable housing, the basic issue is the cost? Would you agree with that? That is obvious but I'm asking for you to confirm that. Clearly the ability —

Mr Tabuns: The cost is quite central, Mr Gilchrist.

Mr Gilchrist: No doubt you're aware of the property tax differential. Let me just read you a quote.

Mr Tabuns: I am, I'm aware —

Mr Gilchrist: "I'm outraged that you pay a significantly higher rate of property taxes than anyone else. You don't even know how much tax you are paying because it's hidden in your rent. This must change. I voted to send you clear information on the property taxes you pay as part of your rent because I believe you have a right to know."

That was said by our current mayor, Barbara Hall. Could you tell me what day council tabled any resolution to restore property tax fairness in this city so that people pay the same rent in apartments per square foot as they do in single-family homes?

1800

Mr Tabuns: You're quite well aware, Mr Gilchrist, that we don't have any power over the legislation.

Mr Gilchrist: That's not true, Mr Tabuns.

Mr Tabuns: No, that's quite true, Mr Gilchrist.

Mr Gilchrist: You can charge a mill rate.

Mr Tabuns: We can't differentiate between classes.

The Chair: Mr Gilchrist, we're going to have to move on to Mr Duncan.

Mr Gilchrist: The answer was, you didn't do it.

Interjections.

Mr Duncan: Assessment is a provincial jurisdiction. This government, through Bill 106, could have dealt with it. They chose not to because their downloading will cost cities like Toronto, poor people, women, vulnerable people, more than they can even calculate. They acknowledged in their meeting with big-city mayors that they don't have all the numbers. They acknowledged that they have the numbers broken down by municipality but wouldn't release them. All your badgering and all your bullying and all your hot air isn't going to change that.

What we've seen here today, in terms of turning the television off for a visual presentation, in terms of badgering of witnesses here in Toronto and right across Ontario, is an absolutely despicable display that will be rewarded quite amply in two years' time. We look forward to that day.

We thank you, sir, for your presentation. There are some points of view that the official opposition agrees with the government on and doesn't necessarily agree with you, but your presentation has been meaningful to this debate and hopefully will enhance the quality of debate in the Legislature so that all of us can be proud to be members and can respect one another enough to listen.

Mrs Boyd: Thank you very much, Peter, for your presentation. Mr Gilchrist, when he goes after those who disagree with him the way he does, sometimes gets himself into a mess. We all heard what he just read that Mayor Hall said. What she promised to do was try and get the tax bill to show what the differential was, what the proportion of rent was that was taxed. She did not have the power to change the assessment. She promised that she was going to try and find a way to let people understand what portion of their rent is taxed. Would you like to respond to that?

Mr Tabuns: In fact, she did, along with the rest of council, vote to send out those notices, and they were sent out. As a tenant in the city of Toronto, I received my notice.

The Chair: Mr Tabuns, we thank you for coming.

ROOMERS' RIGHTS ORGANIZATION (TORONTO)

The Chair: We have one more item on the agenda, ladies and gentlemen. We have agreed that Michael Baxter, because of a misunderstanding, would have 10 minutes to make his presentation to the committee. Mr Baxter, you have 10 minutes.

Mr Michael Baxter: In light of what happened, the misunderstanding earlier in the day, Mr Chairman, I would like to express my appreciation for your allotting me this time, not that it ultimately matters that much, but having made the preparation, it's really decent of you to do so.

I believe the last time I made a deputation in relation to housing it pertained to Bill 121 and my opposition to some of the policies being initiated by Al Leach's predecessor, Evelyn Gigantes. My focus then was on the impact of Bill 121 on caring facilities. I was particularly utilizing the situation of the Massey Centre as a focal point of opposition. Without wasting time on unnecessary elaboration, the gist of my position was that we were contending with ideological blinders, and I used the newspaper quote to the effect that Ms Gigantes was "the last real socialist in Bob Rae's cabinet."

Relating to this factor of the distorting nature of ideological commitment, I must emphasize that Evelyn Gigantes truly believed that her policies were to the benefit of all concerned. I did not perceive her as other than a caring and concerned person who was the unfortunate victim of a kind of political fundamentalism, ie, socialist ideology.

It bears somewhat of an analogy to this present situation, Bill 121 having become legislation with all its perceived imperfections, in that we are again contending with an ideological mindset and considering the consequences thereof.

I recall one of the deputants from last week's session here, a Mr Herman, I believe, who, in his support for Bill 96, presented a compelling case on behalf of the landlord. He dealt primarily with the question of rent control and of the need for landlords to be enabled to charge sufficient rent to deal with costs related to such major repair items as elevators, furnaces etc. Within the context of marketplace economics, I would not be prepared to argue with Mr Herman. In fact, I would think he has pleaded a legitimate case, albeit within a certain limited context.

This does not imply, however, that I am prepared to support Bill 96. This bill must be examined in relation to other legislation proceeding from the government of Mike Harris and Co. Ltd., and the social implications thereof, particularly for downtown Toronto.

Vis-à-vis the analogous nature of our present situation, as referred to above, let's recall the response of PC members then of the opposition when Bill 121 was passed into law. Memory doesn't always serve me well, but I do recall at least that Margaret Marland, among others, castigated the government of Bob Rae for the dictatorial manner in which Bill 121 was imposed, as expressed in committee

hearings, against the will of those concerned, or, to use that more ideologically tinged phrase, "the people."

As those who read a front-page item in the *Globe and Mail* of Friday, July 25, might realize, there is already considerable strife among different factions of the neighbourhood in downtown Toronto east, especially the lower Cabbagetown area. To use a cliché that I wish were not so apropos, I fear that we ain't seen nothin' yet.

As per the specific conflict between 416 Dundas, the Friends of Shopping Bag Ladies' Centre, and local residents' associations, ie, SOBRA and TEDRA, our organization is distributing a newsletter, *Rumours*. I believe this has been distributed around the table. Copies have been provided and there are others further available.

The most compelling issue, one that immediately presents itself and is impossible to ignore or dismiss, concerns that ever-increasing sector of our downtown population who comprise the clientele of such social support centres as 416, the Open Door Centre, Central Neighbourhood House, the Friendship Centre, Council Fire Native Cultural Centre, the Christian Resource Centre, Seaton House etc.

If I may use a favourite expression of our Minister of Housing, you don't have to be a rocket scientist to see that we are referring to a very significant number of those whom we might speak of as being somewhat disfranchised and dependent. If it is necessary to categorize among those more readily slotted, we are looking at various aspects of mental illness and/or incompetency, at various addictions and dependencies relating to alcohol and other drugs, and so on. Whatever, although they don't comprise a constituency of significance regarding electoral input, we are looking at one heck of a lot of people who stand to be even more alienated from sharing in the provisions of an increasingly productive, but also an increasingly strife-ridden, society, one that's driven by an ideology of free market economics and that would wish to be able to ignore the plight of those who fall by the wayside. You certainly shouldn't have to be a rocket scientist to see that Bill 96 is simply another in the legion of those, especially proceeding under the aegis of Al Leach, which are part of a revolution which augurs a society of which I do not particularly wish to be a member.

Indeed, one can readily and realistically project to the societal nightmare that must proceed from the consequences of fiscal downloading to municipalities, a move facilitated by Bill 120's amalgamation. I would find it difficult to perceive of SOBRA and TEDRA as being even more so bastions of reactionary intolerance and NIMBY-ism than they've already become over the past year or so. However, with increased property taxes in an ever more so factionally conflicted and overburdened municipality of Toronto, I'd hardly advise anyone to take up residence in Toronto east downtown.

As for Bill 96, it's simply another component of what is proceeding from the free market ideologues at Queen's Park, and even a rocket scientist could see through the rhetorical manipulations of the housing minister and his cohorts. One is obliged to ponder just how cynical and

callous our political representatives can be. What sort of provision is being contemplated by the Ministry of Housing for the truly numerous residents of downtown Toronto whose housing needs will not be accommodated in the policies ensuing from this regime at Queen's Park? No explanation can be found in the notion that somehow a consequence of downloading will be that of attributing responsibility to the municipality.

Also, the move to total privatization of housing, combined with the removal of rent control, with no indication to consider or to deal with the disastrous consequences, is totally a deal made in Queen's Park, with no attribution to be made to Ottawa or to the city of Toronto.

The goal of cutting costs is pursued in a number-crunching mode that is oblivious to other costs, those that would relate to a humane sensitivity and concern regarding the lives of that relatively poor and dependent segment of our society, a group of people who apparently can be callously dismissed.

There are some great and innovative things happening downtown, such as a more realistic way of providing overnight accommodation for alcoholics at the annex to

Seaton House. Such items would tend to give one hope. However, one's optimism is seriously attenuated when one considers the relative insignificance in relation to the obvious legacy of what is being dictated by the cynical ideologues at Queen's Park.

How does that old cliché go? Something to the effect that, "The love of money is the root of all evil." Amen.

The Chair: Mr Baxter, you stuck to your word and you were almost 10 minutes precisely. There is no time for questions, but we thank you for coming back from earlier this afternoon and making your presentation to us. Thank you very much.

That concludes, ladies and gentlemen, the oral presentations of this committee. I wish to remind the caucuses that any amendments by the three caucuses must be before the clerk, as I understand it, by 5 o'clock on August 21, which is next Thursday.

Accordingly, unless there are other questions or comments from the committee members, this meeting is adjourned until August 28 at 10 am.

The committee adjourned at 1812.

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Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Thursday 28 August 1997

Journal des débats (Hansard)

Jeudi 28 août 1997

Standing committee on general government

Tenant Protection Act, 1996

Comité permanent des affaires gouvernementales

Loi de 1996 sur
la protection des locataires

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 28 August 1997

Jeudi 28 août 1997

The committee met at 1000 in room 151.

TENANT PROTECTION ACT, 1996

LOI DE 1996 SUR LA PROTECTION
DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies / Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

The Chair (Mr David Tilson): Good morning, ladies and gentlemen. We'll call the meeting to order. This is the clause-by-clause portion of the committee hearings. I would like to remind members of the committee of what we will be doing in the next two days, this Thursday and the following Thursday. I'm going to read to you, to assist the committee, what the order of the House said. I'm just going to read the portions of the order that deal with the clause-by-clause portion of the debate:

"That the committee be authorized to meet to consider the bill for two days of clause-by-clause during its regularly scheduled sessional meeting times; and that the committee be authorized to meet beyond its normal hour of adjournment on the second day until completion of the clause-by-clause considerations;

"At 5 pm on the second day of clause-by-clause deliberations, those amendments which have not yet been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. Any divisions required shall be deferred until all remaining questions have been put and taken in succession, with one 20-minute waiting period allowed pursuant to standing order 128(a)."

I'm pausing because I notice the members of the New Democratic caucus aren't here. Out of courtesy to them, we should probably wait. I know we had an arrangement with the public hearings part of this that we didn't need all three parties here, but I'm going to recess the meeting for five minutes so we can determine when a representative from the New Democratic caucus is coming.

The committee recessed from 1003 to 1006.

The Chair: We're going to reconvene, ladies and gentlemen. I believe subcommittee members are aware, and I don't know whether all committee members have

been aware, of the drafting errors in the current package of amendments that has been distributed to members of the committee. These errors affect all three caucuses, through no fault of individual members of those caucuses. There is no question that each caucus filed their amendments at the scheduled time and was not late in filing those amendments.

I am proposing that these errors be rectified by seeking unanimous consent to substitute the amendments that were drafted incorrectly with a properly drafted package. I understand that these new amendments do not contain anything that was not intended in the improperly drafted amendments previously distributed.

Before I seek that unanimous consent, legislative counsel wishes to address the committee, and I have agreed that she could. Her name is Betsy Baldwin.

Ms Elizabeth Baldwin: I would like to make an apology with respect to technical errors that appeared in several motions that were tabled last Thursday. One of the errors affects one government motion, three Liberal motions and eight NDP motions. The purpose of those motions was to remove subsections of the bill. The motions were framed as recommendations to vote against the subsections rather than as motions to strike out the subsections.

The other error was a typographical error that affects one government motion. In a motion to strike out certain words in a provision and substitute others, the words "and substituting" were deleted.

As the legislative counsel responsible for Bill 96, I apologize personally and on behalf of the office of legislative counsel to the members of this committee and to all three parties for any problems or embarrassment these errors may have caused you.

Mr Dwight Duncan (Windsor-Walkerville): We will agree to unanimous consent under one condition, and that is that we deal with sections 36, 116, 146, 200 first in terms of our hearings, given the time limits that have been imposed by the House motion. It's our view that these are the sections where we had considerable representation from the public and therefore we ought to deal with those first, in that order. If that is the case, we would be prepared to grant unanimous consent.

The Chair: I'm going to ask you to repeat those sections slowly.

Mr Duncan: Okay. Do you want me to place a motion?

The Chair: I've been informed that we need unanimous consent to stand sections down. The motion would probably be out of order unless there's unanimous consent to stand the other sections down in advance of those. I can give you an opportunity to request that. I'm seeking unanimous consent for these amendments, and that's where I'd like the focus of the debate to be, if there is debate.

Mr Duncan: Then we will not grant unanimous consent.

The Chair: Then that ends it.

Mr Tony Silipo (Dovercourt): On a point of order, Chair: I just want to be on the record, given that we won't have unanimous consent, that I was prepared and am prepared to give unanimous consent without conditions.

I agree with Mr Duncan when he says that sections 36 and 200 and the others he mentioned are of particular importance and that we should try and deal with those, if not at the beginning, to make sure we get through the bill in time that we deal with those sections. I find it somewhat strange that we would deal with what has been clearly described as an error on the part of the drafters of legislative counsel and try to tag on to that another obviously important issue. I would ask my Liberal colleagues to reconsider, because one does not tie in with the other at all.

Mr Steve Gilchrist (Scarborough East): I must, on this occasion, agree wholeheartedly with my colleague from the NDP that this is really not the appropriate occasion to be lumping in other issues. Legislative counsel has been very forthright in admitting that these are purely typographical errors. I don't think this is the sort of thing that should be held up for any kind of unfortunate bargaining.

What is quite ironic is that I can indicate to you, Chair, that there are a number of Liberal amendments we're prepared to accept as we go through the hearings on these next two days. They would, ironically, be depriving themselves of the opportunity to lobby and do that.

Having said all that, I have absolutely no problem with which sections of the bill we deal with first. Having sat through over a dozen bills so far in the last two years, I know full well that opening comments rarely relate to section 1 of the bills anyway.

Given that there's nothing that constrains us from standing down those other sections, and having already heard the same thing from Mr Silipo, I really think it is quite unfortunate that you've chosen to take this route and I would ask you to reconsider.

Mr Duncan: If the government is agreeing that we will deal with sections 36, 116, 146 and 200 first, in that order, at the beginning of clause-by-clause, we will agree to unanimous consent.

Mr Gilchrist: We don't care.

Mr Duncan: You don't care? If the government's prepared to do that, we will grant unanimous consent.

Mr Ed Doyle (Wentworth East): I just want to say that this was an honest mistake with a very graceful apol-

ogy. Why are we making an issue of this? Let's get on with it.

The Chair: Let's see what happens if we ask for unanimous consent for both issues.

Mr Duncan: I just want to say one thing. This has to do with the ramrod effort of the government on its House motion. Sections 200 and 146 are well into the bill, and you've given no guarantee that the key sections of the bill will get any debate. We recognize that this was a simple error, an honest mistake, but given the fact that you've chosen to ram through your resolution in the House, restrict public debate, restrict public access, we wanted to be certain that the most important sections of the bill get a thorough debate. The parliamentary assistant has indicated that the government will agree to deal first with those sections, section 36, 116, 146 and 200, at the beginning. If that's the case, we will grant unanimous consent.

The Chair: Can I ask you to repeat those sections again, just so we're clear?

Mr Duncan: Section 36, section 116, section 146, section 200.

The Chair: I'm trying to keep this thing moving so we can get into clause-by-clause. I'm going to try another tack. Do we have unanimous consent on both requests, that the new package as presented for clause-by-clause debate be accepted for debate, and that the sections proposed by Mr Duncan be dealt with in priority to the other sections? That will require unanimous consent from members of the committee.

Mr Gerry Martiniuk (Cambridge): Mr Chairman, may I have a five-minute recess for caucus?

The Chair: The meeting is recessed for five minutes.

The committee recessed from 1015 to 1019.

The Chair: I'm going to ask for unanimous consent again as to whether the committee will authorize two things: (1) the redistribution of the package with the changes as suggested by legislative counsel to correct the technical errors, and (2) the bringing forward of sections 36, 116, 146 and 200, which will require unanimous consent. Do I have unanimous consent to do those things? Agreed. There is unanimous consent.

We will therefore turn to section 36. The clerk is in the process of handing the package to you. Mr Duncan, the first proposed amendment is from your caucus.

Mr Duncan: I move that section 36 of the bill be struck out and the following substituted:

"Selecting prospective tenants

"In selecting prospective tenants, landlords may use, in the manner prescribed by section 21 of the Human Rights Code, credit checks, credit references, rental history or guarantees. Landlords may require income information of prospective tenants where such information is not used in a manner which results in discrimination contrary to the Human Rights Code."

We wanted to debate these four sections because they are at the heart of the bill. Given the time allocation that constrained us and the rules that constrained us, we felt it very important to deal with these issues, particularly the human rights issue, first and foremost. To leave this dis-

cussion to later in the day when there might not be time we felt was inappropriate. We are glad that the three parties have consented to deal with these sections, because they are at the heart of the bill.

This particular section goes to the question of human rights. We had representations from both landlords and tenants on these particular sections, section 36 and section 200. The question becomes what information a landlord can use in selecting a tenant.

Throughout the hearings, the government has suggested that they are not exposing potential tenants to income discrimination. We do not agree. We are concerned with preserving the integrity of the Human Rights Code's current protections. We want to ensure that landlords are not permitted to circumvent the current protections in the Human Rights Code for young families, people with disabilities and people on social assistance simply by disqualifying applicants on the basis of unreasonable income requirements.

We do not object to landlords doing credit checks, asking for landlord references and asking about income. We do not object to landlords refusing to rent to someone who cannot reasonably be expected to pay the rent. We do object to landlords disqualifying all social assistance recipients and virtually all single mothers, young families and persons with disabilities on the basis of the common 30% rent-to-income ratio.

Some members of the committee have stated that they want to ensure that landlords are able to ask for income information and to use it in a reasonable way, but they do not agree with the 30% rule and have no intention of allowing landlords to discriminate or to undermine existing protections. If that is in fact our intent, we should be supporting this amendment and an amendment to section 200 along these lines.

We feel that the way the bill was constructed originally was designed to allow landlords to use income information in a manner that we don't feel is appropriate. We do, by proposing this amendment and an amendment to section 200, believe that landlords have a right to that information. The question becomes one of how they use it. Therefore, we've put this particular amendment.

Mr Silipo: I will be supporting this amendment. As you know, we have a similar one which follows. I certainly agree with Mr Duncan when he says this is one of the issues at the heart of this bill. The damage this section of the bill, if not amended along these lines, would do to people on social assistance, to seniors, to single parents, would just be incredible.

I found it startling to read the letter that I believe we all received from the chief commissioner of the Human Rights Commission, Mr Keith Norton, the letter dated March 10, 1997. He says very clearly, looking at the way the bill is drafted: "Any regulations that may be promulgated to this effect" — that is, the effect of introducing changes that will allow landlords to screen tenants using income information that is used to evaluate ability and willingness to pay rent — "will raise serious human rights

issues for seniors, single parents and persons who are receiving public assistance."

He goes on to say, and I find this really startling, that allowing this kind of information to be provided to landlords "will effectively authorize discrimination against people on public assistance." It wipes out the protection that already exists in the code and that should continue to be in the code, in our view.

It is just incredible that the government would be going to this extent to try to deal with what may be a problem in some cases. There is, as I understand it, no particular information that validates the theory that people who are poor tend to not pay their rent any more than people who are more well off. There is therefore no reason to do what the government is trying to do here, which is to put in place legislation that will effectively allow discrimination against some of the poorer people in our society. It's just plain wrong.

I haven't been here during the hearing process, because it is not my main area of critic responsibility, but the government representatives, I gather, particularly through Mr Gilchrist, have indicated in the past that this is not their intent. I would like them to explain to us, particularly Mr Gilchrist, why they are persisting, unless they are prepared to adopt this amendment or the very similar one we have put, in restructuring the law in a way that the head of the Human Rights Commission says is going to bring about discrimination.

I'd just ask Mr Gilchrist to comment on that. If that's not their intent, I need to understand why it is they're persisting, if they are persisting, in maintaining the bill as it is drafted as opposed to taking either our amendment or the Liberal amendment.

Mr Gilchrist: I'd be pleased to respond and thank my colleague Mr Silipo for the opportunity. I don't think there's any doubt that both the Liberal and the NDP amendments have embodied within them exactly the same spirit as the wording that's currently in the act. We've made it very clear, I think, in both sections 36 and 200 that we will be ensuring through the regulations that there cannot be an abuse of that information.

But let's get something very clear. It is currently the right of a landlord in Ontario to ask income information. That is an existing right, an existing part of the negotiations that take place every day between landlords and tenants. This bill merely recognizes that fact. It really is quite remarkable to us that people don't see that this is adding a power and adding a right to tenants. Currently the Human Rights Code does not mention income information at all.

1030

You're right that it does specifically say you can't discriminate on the basis of receiving social assistance. As the member knows full well, that section of the Human Rights Code remains in the Human Rights Code. It is not being amended in any way by this piece of legislation, so that right continues to be there. But landlords could have, if it had been their intent, found a way around that prohibition by saying, "No, I didn't discriminate because they

are on government assistance; I discriminated because their income is too low.”

We’re now making it very clear that this too will not be allowed. We are saying you must meet the test of reasonableness in all the business dealings between a landlord and a tenant.

We’ve heard a number of people come forward, including tenant groups, saying they don’t think it’s reasonable if somebody on government assistance gets a \$3,000-a-month condo on Bay Street; that’s just not realistic. Yes, that’s the far end of the spectrum, but I think we would all agree there is a point at which you’re not doing the tenant a favour to lock them into a lease they cannot afford.

However, by the same token, landlords must demonstrate that their criteria are purely fair and reasonable. I find it quite remarkable that both parties continue to say it’s okay to have credit checks. Just before these hearings started, and without even considering the significance vis-à-vis this bill, I responded to an article in the newspaper, and it suddenly struck me I’d never asked for my own credit history. So I sent a letter to Equifax, supplied the two pieces of information they require, and back came the documentation. It not only shows where my employment is — I think it would be fairly easy for people to find out the salary of an MPP, but it saves you the trouble; the credit check tells your income.

That in the motion you can suggest that asking for income information is inappropriate but it’s okay to ask for a credit check that includes income information I think bespeaks a lack of awareness perhaps of exactly what is contained in credit checks. That is embodied in both of your amendments. You’ll forgive me, Mr Silipo, but taking the words “income information” out but allowing one of the other words to still capture the same information I don’t think really changes our bill at all. That’s why I would defend it.

Let me go a bit further. It’s quite interesting that we’ve spent two of the last three days in the House debating another bill, Bill 136, and a common refrain from the opposition benches about the tribunal that’s proposed to be set up to deal with municipal restructuring and labour negotiations — your party and you personally have consistently taken the position that appointees are nothing more than political hacks and they don’t know what they’re doing. Yet you continue to trumpet Mr Norton as some kind of authority on human rights.

Let’s instead go back to the testimony of Professor Michael Trebilcock, faculty of law at the U of T. He has decades of experience in the field of human rights, and his was absolutely the most detailed submission we’ve received on the subject in all the weeks of hearings. He has written books on discrimination. He was the expert witness at Human Rights Code inquiries. He made it very clear, in a brief filled with precedents, that human rights laws are not appropriate vehicles for dealing with discrimination of an economic nature in the marketplace. While he said it would be totally inappropriate for landlords to rely solely on income information, he believed it was just as inappropriate to suggest that this was some

kind of discrimination, recognizing that some people in the province can afford different assets than others.

Having said all that and having one of the, if not the, most respected authorities and experts in the field say that this bill does not infringe the rights of tenants, it does recognize a current business practice.

We are also challenged with the fact that throughout the hearings, having heard landlords say they currently asked information about income, we also heard a number of groups, ostensibly taking the position that this was an inappropriate section, tell us that there are over 450,000 tenants in this province currently paying more than this artificial 30% rule and 150,000 paying more than 50%. I would ask the member to somehow demonstrate factually and empirically, if landlords already have the right to ask the information and, having asked the information, have rented to those tenants, why clarifying that relationship in the code would drive landlords to conduct themselves differently. Obviously, the landlords will keep those tenants there. This is not going to prompt them to throw someone out. If it’s the suggestion that the landlords don’t know, I think that’s really quite condescending. I think landlords will continue, by and large, to be fair and reasonable and tenants will continue, by and large, to ask for accommodation they know they can afford.

There is a mechanism now in this act to ensure that if a landlord abuses that information he can be dealt with under the Human Rights Code. That is something that cannot be done today. This adds a new prohibition, adds a new right for tenants. I think it couldn’t be clearer, particularly in section 200, that this really closes a loophole and adds new powers and rights to the tenants in this province.

The Chair: Mr Duncan and then Mr Silipo.

Mr Silipo: Mr Chair, I just asked a question. Do I have the floor still?

The Chair: No. Mr Duncan and then Mr Silipo.

Mr Silipo: On a point of order, Mr Chair: I simply asked a question of Mr Gilchrist. I had not yielded the floor.

The Chair: The clock is running. I might add that each member, which would include questions, lasts a duration of 20 minutes. My understanding of the rules is that each member has a 20-minute block of time; that is part of your block of time, if you don’t have any problem with that. You’re right. You did ask a question, Mr Silipo.

Mr Silipo: I won’t take long. I just want to say in response to what Mr Gilchrist said that I would agree with him on one point. He has obviously spent more time looking at these sections than I have. I’m prepared to grant that. That may be the problem here, because I don’t think I need to look at this too long to know that when you take a right that now exists and modify that by virtue of section 200 and further say you’re going to modify it by regulations which are yet to come and which none of us has seen, what you are doing is taking away an existing right. I don’t need to get into a lot of the words to know that’s just a basic tenet of legislative drafting. In and of itself, that very act, when you bring that back to section

36, tells me that what you're doing is something to be looked at, and when I look at it, what you're doing, in my view and in the view of many other people, is wrong.

The interesting thing is that, yes, it's possible now for landlords to run credit checks. That begs the question, why do you need to change the legislation? Yes, I do rely on what Mr Norton says, because he's the head of the commission. You appointed him; we supported his appointment. But I'm not talking here about Mr Norton; this is not his personal opinion we're getting. Presumably Mr Norton would not write the kind of letter he wrote on March 10 simply because that's how he personally feels about it. It's because he writes on behalf of the commission, on the basis of case history, on the basis of law, on the basis of what has happened. He says himself that in terms of requesting information such as credit checks and rental histories, the commission recognizes that landlords have legitimate business reasons for requesting that. He says himself that he believes these are far better indicators than income information of a prospective tenant's ability or willingness to pay.

This is not the issue. The issue is that you are beginning to tamper — and you're not just beginning; you are tampering here — with a basic right that people, particularly people on public assistance, have. I don't think you should do that. If you're true to your word that you don't want to do that, you should not be putting into place section 36 and particularly section 200 — when we get to that we'll deal with that as well — that pick away at the basic rights people have and makes those subject to regulations that you're then going to be able to change at whim, through cabinet, as opposed to the protection that exists now in the law of the province, that one cannot discriminate on the basis of one's income. That should continue to be the case.

Mr Gilchrist: It will be.

Mr Silipo: I'm not sure it will be and the commission is saying that they don't believe it will be.

Mr Duncan: We concur on one point, that there is considerable confusion around this whole issue. Having heard the expert testimony throughout the province, what we are saying and what we believe now is that the Human Rights Code does not prohibit landlords from requiring information about prospective tenants, nor does it prohibit landlords from reasonably assessing a tenant's ability to pay the rent. Since there's confusion about it, we are proposing an amendment which establishes that landlords may require income information and may use it in a non-discriminatory manner. The code does not prohibit landlords from discriminating on the basis of receipt of public assistance. Some members, we believe, are confusing this protection with the protection from discrimination because of source of income.

1040

When the Conservative government introduced an amendment to the code in 1981 to prohibit discrimination because of receipt of public assistance in housing, some landlord organizations pressured to have receipt of public assistance changed to source of income. They wanted to ensure that landlords could refuse to rent to people on

welfare because of their income level. That Conservative government realized that if landlords were allowed to refuse to rent to people on social assistance because their income is low, then the protection from discrimination would be meaningless. They refused to change the provision, and for 16 years it has been illegal to discriminate on the basis of receipt of public assistance in Ontario.

Some members of the committee throughout the hearings have said they don't understand Keith Norton's statement that the amendment will effectively wipe out the current protections for people on social assistance because landlords will still be prohibited from invidious discrimination against social assistance recipients because of their source of income. The important point is that if landlords are permitted to use income level to disqualify applicants, this will provide a universal justification for refusing to rent to social assistance recipients. The formal protection that remains in the Human Rights Code will be illusory if landlords are permitted to use these types of income criteria.

We think what we're suggesting is in line with what the government wants to do, only we are clarifying it in the legislation. We think it makes infinite sense to clarify the legislation unequivocally in section 200 and section 36 so that there is a clear understanding. I suspect that if we get into a regulatory environment where we define and clarify these issues, nobody is going to be happy. I say, with respect, to the government that you will be creating a situation that doesn't solve anybody's problems and creates a situation that won't benefit either landlords or tenants.

The amendments we've proposed to these two sections we feel are reasonable and balanced and afford landlords the opportunity to use income information but prohibit them from using it in a discriminatory fashion. It's a fine point. The testimony we've heard throughout the hearings, what the government said and the amendments the government is proposing, indicates that we all want to be going in the same direction. The chair of the Human Rights Commission put very compelling testimony. Other testimony has been given by many sources that has persuaded us that the amendments we are proposing will achieve what I think the government wants to achieve and at the same time will provide reasonable protection for both landlords and tenants. The amendments we've put forward we believe will do that.

We think the wording of the current bill is not good wording. We don't believe tenants will be properly protected under the regime the government is proposing. The wording we've proposed we think clarifies matters, clarifies it in the statute and will allow for landlords to reasonably use income information but not use it in a discriminatory fashion, and we won't have a scenario where regulations will become very onerous, will be confusing and ultimately inefficient, and we'll be back at it again.

Mr Mario Sergio (Yorkview): I concur with my colleague totally. I think the amendment as proposed goes a long way in clarifying the situation. I just want to add the

comment that all the tenants, especially those receiving social assistance, are being lumped together. If you recall, during the lengthy presentations we heard from many tenants receiving social assistance that they want to get out from certain situations and they were willing to pay even more than the 30% as long as they could get out from a certain place and a certain situation. That indicated to us that there are many tenants out there receiving social assistance who are trying very desperately to improve their situation. Leaving the legislation the way it is is tantamount to legalizing discrimination, and I think the government would do well to think seriously about the implications of the legislation as it is written. The amendments proposed by my colleague are quite acceptable, make sense, and I think the government should support them.

The Chair: Further questions? Further debate? There being no further questions or debate, I will ask for a vote on the amendment. All those in favour of the amendment by Mr Duncan? All those opposed? The amendment is defeated.

We will move to Mr Silipo.

Interruption.

The Chair: Ladies and gentlemen, please. I need your assistance. We can't have interjections from the audience. We've got to keep order somehow in here. It's tough enough.

Mr Silipo has a New Democratic motion which I believe is similar but I believe it is in order to make.

Mr Gilchrist: Mr Chairman, on a point of order: I believe the only difference is the addition of the word "and." I would suggest that under our procedures in this chamber, that makes it identical to the motion that has just been defeated. It is not substantially different.

Mr Silipo: The structure is different, Chair. I'd rather just put it. We're not going to have the debate again, I can assure you of that. I would prefer to deal with it that way, but I'll obviously abide by your ruling.

The Chair: The Chair holds that your amendment is in order.

Mr Silipo: Thank you.

I move that section 36 of the bill be struck out and the following substituted:

"Selecting prospective tenants

"36. In selecting prospective tenants, landlords may, in accordance with section 21 of the Human Rights Code,

"(a) use credit checks, credit references, rental history or guarantees; and

"(b) require income information of prospective tenants so long as that information is not used in a manner that results in discrimination contrary to the Human Rights Code."

I will add one point briefly. I know Mr Gilchrist earlier made a point of relying on the evidence by Professor Trebilcock. My understanding is that even he was critical of the government setting in place a process of decision-making by regulations. One of the essential differences of course between this amendment and what's now in the bill is that it continues to ensure that what landlords can do

has to be done in a way that does not result in discrimination contrary to the Human Rights Code, not to any regulations that may be made thereunder.

The Chair: Discussion? Debate? Questions? There being none, all in favour of Mr Silipo's motion? All those opposed? The motion is defeated.

Shall section 36 carry? All those in favour? All those opposed? Section 36 is carried.

The committee has agreed to proceed to section 116. There are some proposed amendments, if you could you turn to page 126. There are quite a few. The first motion is a government motion.

1050

Mr Gilchrist: I move that section 116 of the bill be struck out and the following substituted:

"New tenant

"Subject to section 113, the lawful rent for the first rental period for a new tenant under a new tenancy agreement is the rent first charged to the tenant."

This is simply an amendment to clarify the amount of rent the landlord and the new tenant negotiate under a new tenancy agreement is the lawful rent. It eliminates the possibility of overriding this provision through a regulation. The revised wording will ensure that it cannot be subverted in some other way and that will bind both parties to the lawful rent.

Mr Silipo: I won't be supporting this amendment. As you know, we have an amendment coming up and I'm not sure how you're going to deal with that, so I'm going to put my views on the record now.

I want to be really clear that to me this is one of the major, major flaws with this bill and it of course is one of the major new directions that this government has taken, which is that they are in effect getting rid of real rent controls and they're doing it through this section particularly, and obviously through the whole act.

What they're saying is that once a new tenant moves in, there will be a new rent that can be established by the landlord. Yes, subject to agreement, but we know that means in effect the landlord will be able to increase the rent. That really is the effective end of rent controls.

When you look at the turnover in tenancies with the fact that a significant number of people move, if we take any five-year period, many of the tenants would end up moving during that period of time. What you've got is a situation in which, without removing the whole structure of legislation that presently exists, the government is in effect getting rid of the protection that tenants would have.

Right now, the laws that exist would continue to allow the same rent, the same decision that would have been made in an existing tenancy, to continue even if there is a new tenant who comes in. This of course changes that significantly and lets the landlords charge whatever they wish, whatever they obviously feel they can get at that point.

It's just plain wrong, it's just plain unjust and it's not even necessary; that is the other incredible thing about this. There is no evidence I have seen and that I think any reasonable person can point to which says when you get

rid of rent controls, as this government is doing, we're going to see any more affordable rents or that we're going to see, for that matter, any more units being built by the private sector, because obviously the government isn't interested in building through the public sector.

Even on that level, there is no justification for what the government is doing. It is clearly a philosophical direction that they are taking which breaks what I think has been — with, yes, some needed modifications — but what has essentially been a very useful and good balance between the rights of landlords and the rights of tenants in the existing legislation, legislation that has been around for some years, legislation that obviously has in the past had the support of the three political parties, but legislation which now in the Mike Harris world is no longer acceptable because in the Mike Harris world you have to pit one group of people against another.

On this particular issue, the government is choosing very heavily to take the side of landlords, give them rights which in some cases they may not even want to have, but which in some cases they will discover will not be particularly helpful, but which will lead tenants into a situation in which they will have to pay higher rents because that will be the only avenue left open to them when landlords are able to simply, particularly under this provision, increase the rent.

Through the rest of the sections which are affiliated with this, where the government is making it easier for landlords to evict tenants through a variety of changes in the law, it will lead to growing confrontation between landlords and tenants. That is something we don't need. It's something that is going to make our society meaner than it is today. That's not something we should be supporting as legislators. It's certainly something that we as New Democrats do not support.

We believe that the present structure should continue, particularly on this issue, that the rent that is there when a tenant moves should continue to be the rent that is there when a new tenant moves in, subject, as we say in our amendment, to all of the lawful and proper avenues that a landlord has to seek increases in the rent, but not subject to the fact that all of a sudden there is a vacancy and the landlord can decide what the new rent will be.

Mr Duncan: The reason we wanted to get to this section is because this is the heart of the bill. This defines the government's position.

Let me start by stating, as we have said throughout the hearings, that we believe there should be a regime of price control in the rental housing market. We believe a system has to be implemented that strikes a balance and we don't believe that this does.

When I saw this amendment I was intrigued because the amendment ties this section back to section 113, which is the section that deals with discounted rent. We've heard some compelling testimony from landlords in communities where there is an oversupply of rental accommodation, that they want to keep the rent maximum in place. The fatal flaw in this bill, both from a landlord's perspective, in my view, and from a tenant's perspective is that by

adopting this system, it compels those who believe in a price regime to oppose the rent maximum concept.

What is that? Let's envision a very simple scenario. A unit becomes vacant. A landlord at that point sets a new rent. The landlord can in effect set a new rent at that point where he thinks he wants to have it, subject to rules that will be prescribed. We'll anxiously await those rules. If you're a landlord, of course you're going to set the rate quite high and then you could possibly offer discounts which will effectively allow you in the future to circumvent even the minimal protections that are afforded by keeping somebody protected.

Let me be unequivocal. In two years this will be repealed. We will introduce a system of price control. We think it's fair and we think it's right. We support some of the initiatives the government has taken in this bill. We've said it throughout the hearings. We're particularly intrigued with respect to dispute resolution. We don't think the system has served either landlords or tenants well.

The government, I am given to understand, has even broken its promise to landlords during the election about completely getting rid of rent control. But what you've done, we think, is set up a system that's fundamentally flawed, and this section is at the heart of it.

The only amendment we could even propose to this section was simply to not support it, to vote against it, because it's the heart of the bill. Since it's the heart of the bill and it's a bill that we believe does not find balance, does not protect the interests of both landlords and tenants, we can't support an amendment to it. We certainly cannot propose an amendment to this section. We have to vote against it.

Because of the way the government has set this up, we can't even deal with those market situations in a price-regulated environment where supply does exceed demand. At the very heart of it, this section and this approach to public policy — and we've heard compelling testimony from witnesses from other jurisdictions that says unequivocally — New York, Los Angeles: We had written testimony on Los Angeles, we had a delegation here from New York on what happens. What happens? Yes, the supply of rental accommodation, the upper end, will increase. There is no question in my mind that will happen.

The question has become, what happens at the lower end? Right now, we are in a period where there is an inadequate supply, in our view, of affordable rental accommodation. This bill relies on some notion that if you increase the supply of higher-end rental accommodation, somehow down here there will be more affordable accommodation. We simply don't agree. In the history in this province, the history in other jurisdictions, that does not occur.

The government has gotten out of non-profit housing entirely. It's introducing, on a trial basis in two locations in the province, we believe, a system of shelter allowance. We think ultimately the government's objective, and we believe the government's objective is to create more rental

housing, but we don't believe you will achieve it with this. We don't believe you'll achieve it at the lower end.

1100

We look at other US jurisdictions. I challenge the government members of committee to go into the downtown cores of American cities and look at what is meant by rental accommodation. Where I come from, you don't have to go far. There's no question that we have a crisis in terms of development of affordable rental accommodation. There's no question that the private sector has not been able to come forward, for a whole variety of reasons, not the least of which is the regime that has been in place. But this is not, in our view, the answer.

The objective of government ought to be to protect tenants, ensure an adequate supply of rental accommodation for all income levels, and to find that balance we think you need a system of price regulation. You need a system that will ensure an adequate supply of affordable accommodation. This does not achieve that. This, in our view, does not find the balance that is needed.

We will vote against this section. We do not propose an amendment to it because this section is at the heart of the bill. We will be introducing a bill of our own, subsequent to finishing these hearings, that we think is a better alternative that will provide for new affordable housing; second, protect tenants; and third, create an investment climate that enhances a landlord's desire to invest in this province in rental accommodation.

Mr Mike Colle (Oakwood): I want to emphasize as best we can in this last gasp in terms of trying to get some attention raised to the plight of people looking for housing. The area I'm most familiar with is Metropolitan Toronto. It's ironic that yesterday John Jagt, who is the director of Metro hostel services, said that there is an unprecedented demand for hostels in the Metro area to the point where, for the first time, they've had to try and place families outside of Metro's boundaries. There is no more room in the Metro hostel services and it's not because of the talk you've heard about gypsies flooding in. The fact is that a lot of people are falling through the cracks.

This bill, and this section of it especially, widens those cracks because it puts more pressure on the affordable housing that exists for those prices to be raised, and to be raised for people who are generally on fixed or on limited incomes. That is the type of pressure. I know the amount of money may not seem to be significant, that it could potentially go towards higher rent asked for by a landlord. But I have a case where two days ago in my own riding a single disabled woman in her 50s, who had worked 20 years in a hospital and is no longer able to work, was told that she had to move out of her apartment because social services would not pay for the \$20 increase in rent. This 52-year-old woman with chronic arthritis is now faced with being forced to move out of her accommodation.

These are the types of pressures that exist out in the real world, certainly in Metropolitan Toronto; this is the type of pressure that will escalate. There are a lot of good, affordable units in very good neighbourhoods throughout Metropolitan Toronto. This bill, as someone said, will

give more incentive to those landlords, and not all landlords — but we know that some of them may want to take advantage of unfortunate people. Those are generally the elderly or people who are on some kind of assistance who don't have family support.

As you get into this decontrol, as you get into the rent increasing in a unit as the tenant moves out, which this section begins to give the power to landlords to do, it's going to put enormous pressure on a system that especially in Metropolitan Toronto is very, very fragile. We have families that don't have a place to stay in Metropolitan Toronto. They're being forced out into the 905 area because there are no hostel spaces left, and this is quite unprecedented. That is why my colleague Dwight Duncan, who is the critic of this, is trying to emphasize the fragility and almost the smoking gun this bill is going to put to the heads of a lot of people who are living on the margin. That is the perspective you have to put on this section, and the government's attempt to respond to what they see as a housing problem from another perspective.

There is a housing crisis because affordable housing was stopped dead two years ago by this government — dead in its tracks. Now you're adding another immense amount of pressure on this basic right, which is reasonable housing, and I think you're really playing Russian roulette with a lot of people. Maybe not some of the people who you think make up the majority, but a good portion of Metro's population is going to be affected and threatened by this bill and forced to be out on the street, literally, and now we find out that there is not even hostel space for them. That is what is happening.

That is why we're opposed to this amendment. It begins to take any kind of control protection from people who need more protection and the protection that has existed for tenants for the last couple of decades.

Mr Sergio: I want to something else. My colleague is quite right that you cannot add or change meaningfully the clause in any particular way, and the only way is to vote against it.

I think Mr Leach put it best not too long ago when he said that last year only four new rental units were built. Probably those four units were built on some commercial building and they had no other choice of building anything else to gain the commercial space and their needs and provide some rental units on top.

The government has made it quite clear that they will not get involved in providing any more affordable housing units. It's not their business. I don't know why they are saying that, because I think they should make it their business. Private industry is not going to build any affordable rental units, never, unless we give them the sun and the moon and then something else too.

It has been said, and it can be proven, that it is not 30% that people nowadays use as the median for rental accommodation. I think it goes between 50% and 60%, and God knows some people even pay up to 70% of their total income. What does this tell us? That people want some reasonable accommodation and they will go to any extent,

even to sacrificing many other things, in order to get some rental accommodation.

Why is the government bent on eliminating rent control totally? The approval of this clause does exactly that. It is the beginning of the end of rent control as we now know it, as it now exists. The passage of this clause will start the elimination of rent control. If the government is so sure that they're saying, "To all you moaners out there who are saying rents will skyrocket, this will not happen," then why are they doing this? Granted, the way it is is not the best we can have, but at least we have some controls in there. It is some protection for tenants, some peace of mind for tenants, who can say, "Well, at least up to a point we have some protection here."

1110

If the government is so sure that rents are not going to skyrocket, then why are they doing this to the market? Why don't you leave it to the open market and let landlords and developers make a killing when the market is great, but leave it to the open market? If tenants can't afford the lowest on the market, they have to move up as they are doing now. They are paying 50%, 60% or 70%; they will be doing so.

If the market should slow down a bit, we have to protect those people as well. Why can't we say that? I think that would be fair. I think the members on the government side would agree that this would be a fair playing field, that when the market is slowing down, people will get the best they can on the market and landlords will try and get as much out of the situation. I think that would be fair. Would they agree? I don't think so.

The government is bent on eliminating whatever protection now exists within the present legislation, right or wrong or whatever it is, and tilting the balance completely towards one side. I don't have to tell you, Mr Chair, because you were here all along, that we have heard some of the biggest developers in town, people who have been in business for 30, 40 or 50 years who have built practically every rental unit we have on the market, deriding the government with the introduction of this legislation. They said: "This does not give us anything, no incentive. There is no incentive for us to go on the open market and build rental units unless you eliminate provincial tax, federal tax, give us cheaper land, give us cheaper interest rates, eliminate development charges and stuff like that."

Something interesting happened when we had some hearings, I believe it was in Milton or somewhere in the southwest end. We had local municipalities coming to us and saying: "You know what? You didn't have to tell us, Mr Government. We did it ourselves." Those were the local municipalities. When things were tough, in order to attract development and developers, they eliminated 100% of their own development charges. We didn't have to impose anything on them. We did it in Metro here; North York did it. We eliminated all development charges. What did the government do? Nothing.

On top of that, now we have a government that in one way says municipalities have done a heck of a good job, that what they've been doing is good. So if they've been

doing that good a job, why are we hitting tenants so hard and disregarding the good job local municipalities have done in hard times and tilting the balance towards one particular group in our society, the big developers? I think it's totally unnecessary.

This piece of legislation must be driven by a very small-spirited group outside and inside the government, which is totally unnecessary. It's totally unfortunate that the government is taking this position at this time. It's so sad that there is such a large number of unemployed young people trying so desperately to get into the job market. I'm talking about those who are 25, 28 or 30 years old, people who are dying to start a family of their own and get in their place, and they can't. Many of them are holding back because they are worried that they cannot bring up a family in the proper way because of the economic situation and because of the government's attitude.

What message is the government, you people, sending to our people out there when it is saying, "It's not our business," when we have the Minister of Municipal Affairs and Housing saying, "It is not our business to be in the housing business"? What is the message we are sending out there? "Hey, you guys, rich and poor, you're on your own." The only difference is that the rich don't need the government. They can look after themselves very well. What the government does on behalf of the poor people is to turn its back on them. Usually governments are there to assist the people who cannot help themselves.

I think it's quite appropriate that the motion that has been introduced calls for a total rejection of the clause as presented by the government, because the crux of the matter is that with the passage of the clause we will see the end of rent control. You know better than anybody else, Mr Chair — you've been around long enough — that once you change something, it's very hard to change it later on or improve it in such a way to make a difference. The only thing we can look towards is the next election, a new government, new directions and new hope for the tenants in Ontario; as well, to the providers of accommodation, that there will be enough incentives and government support in some ways to make it attractive enough and create the balance the government is now taking away.

Mr Gilchrist: I'm not going to rehash the history of rent controls but I must correct a couple of things the member for Yorkview said. It's unfortunate that he didn't travel with us across the province and hear the submissions we heard in places like Ottawa, where Minto, the largest landlord in that city and one of the largest in Canada, indicated that purely and simply as a result of this bill, they dedicated an additional \$25 million to expanding and adding to their rental housing stock. In fact, they said they were tipping us off, and when the announcement was actually made a week later, it was \$31 million.

I don't have to go as far as Ottawa. I would direct the member up to Yorkville, where there is a building being converted to rental housing; and over to Spadina, where there are two buildings under construction by the private sector to add new rental accommodation. So when he says

the private sector won't do anything, he only has to walk five minutes from here to see that because of this change in direction, landlords will invest and tenants will benefit from new accommodation at competitive rates in a marketplace where the vacancy rate has more than doubled — it has almost tripled since we were elected — in keeping with almost every community in Ontario.

Rent controls didn't work. Professor Larry Smith told you that, with empirical data to back it up, someone far more expert in the field than any of the politicians sitting at this table. I didn't hear anyone contradict his numbers. The fact is that rent controls haven't worked. If they did, you wouldn't have a seven-year waiting list in this city for affordable housing. Clearly there has to be a different answer.

The answer is, we believe, the vision we've put forward in this bill. I would suggest to the member that he might want to do a bit more research about what's happening out there across this province when it comes to construction before offering such bald-faced statements that the private sector won't be investing.

Mr Duncan: I think you have to use quotes selectively. We also had testimony from other landlords. I refer to Tim Fuerth in Windsor, from Danzig Enterprises, who said that this bill will do nothing to stimulate landlord investment.

There is no question that there has not been development of affordable rental units — no question about that. In our view the issue is one of consumer protection and supply of affordable units. We believe there will be development in the upper end; there's no question. But we don't believe there will be development of new supply at the lower end.

We believe that a proper regime, a proper public policy with respect to the housing market, is one that will afford price protection to tenants and be an efficient system. That's why we've repeatedly said that we support parts of the bill with respect to tribunal, with respect to dispute resolution. At the base, we had contradictory testimony from landlords with respect to development. Our sense is that the government's objective of providing more affordable housing will not be met by the bill you've put forward.

1120

Mr Sergio: Just to add briefly, I was in Ottawa as well and I heard Minto at the first public hearing, but you cannot compare the market in the Ottawa area with the market in Metropolitan Toronto and many other areas in Ontario. That is a totally different market. With respect, these are from Metro. You cannot compare someone building a rental unit on Spadina downtown, when I have said specifically those units are market rents. There is nothing being created with respect to affordable units, which I mentioned in my presentation. Nothing.

I would challenge Mr Gilchrist to show me that a two-bedroom unit on Spadina Avenue will rent for anything less than \$1,500 a month. You tell me, for anyone making less than \$50,000 a year, who can afford a \$1,500-a-

month two-bedroom in Metropolitan Toronto? That's what I call affordable units.

He is trying to mislead the facts that rental units will not be built on Spadina Avenue, in that particular area, for the people on social assistance or those making \$30,000, \$40,000 or \$50,000 a year. I'm talking affordable units, not something that maybe people like you can afford.

The Chair: I'd ask members to try and keep the discussion parliamentary, Mr Sergio.

Mr Silipo: Briefly, the problem as we see it with respect to the question of whether there are sufficient units out there, the issue is one of affordability. It is not that people have not been building because they haven't been able to because there have been rent controls. They haven't been building because they haven't been able to build and establish a rent that most people could afford to pay, so it comes back to this question of affordability.

You could look at Mr Gilchrist's examples and say that Minto could build today under the current law, establish the rent that they feel is appropriate, because they have under the current law a five-year period within which to do that and get whatever they feel is an appropriate rent for whatever units they're building, and then rent control kicks in.

Of course, that is being changed by this government under this bill, but it's not the removal of rent controls that's going to engender the building of more units; it's whether those units are going to be there at an affordable rent for most people of modest means. That's going to continue to be the issue. There's nothing in this bill that tells me, and there's certainly nothing in this particular section that's going to ensure anything other than that rents are going to increase. If that's the objective, then obviously the Tory members are achieving that objective, but if the objective is to ensure that there will continue to be more affordable housing provided at affordable rents for people of average means, for the average family out there, this section isn't going to do it and this bill certainly isn't going to do it. In fact, the opposite is going to be true: Rents are going to be more, and more and more people are going to have a harder and harder time paying for their rent.

The Chair: Further debate? Questions? I'll ask for a vote on Mr Gilchrist's motion. Shall the motion carry? All those in favour? All those opposed? The motion carries.

I believe the proposed New Democratic motion is in order.

Mr Silipo: I move that section 116 of the bill be struck out and the following substituted:

"New tenant

"116. The lawful rent for the first rental period under a new tenancy agreement is the last lawful rent for the previous tenant adjusted by any of the grounds for an increase or decrease in rent set out in sections 118 to 134."

Briefly, what this section does is attempt to maintain the system that we have in place today, which says that when there is a new rental period, that is, a new tenancy agreement, a change in tenants, the last lawful rent that was there continues to be there, and of course that is sub-

ject to being changed, adjusted upwards or downwards, by any of the provisions that exist now. Sections 118 to 134 are those provisions that provide for the lawful increase or decrease of rents for the various reasons set out in the legislation.

We believe that is the course that should be taken. We believe that's the way to ensure the balance that needs to be there between tenants being able to rent at affordable rates and landlords, obviously, being able to have the right to seek, through the lawful routes, increases under the guideline and as appropriate. But that should be the way that the balance should be maintained, not by simply allowing landlords to simply increase the rent because there is now a new tenant in place.

In fact, we know that will lead to further harassment by landlords — certainly not all landlords, but some landlords — as a way to increase the rent. It's ironic that the government has had to deal in other parts of this bill with that prospective occurrence. They themselves acknowledge that that likely will happen, because they've brought in provisions to tighten up some of the rules around discrimination by landlords towards tenants. It's ironic that they had to go that route of setting up a structure to deal with increased harassment, when in fact what they should be doing is leaving in place the basic tenet of the law that says the rent is the rent that's charged on the unit.

There are all sorts of provisos that allow for that to go up or down, that give both landlords and tenants avenues to seek. If there are issues to be dealt with, that's the way it should be done, not by tilting the scale so far towards landlords in this way that then will create more problems that the government itself has admitted will be there, by virtue of them having to now put in place more anti-harassment measures in the bill.

Mr Duncan: The only amendment we've provided to this section is one that simply would not vote for 116. We have proposed a number of amendments to sections 122 and on. These are fairly significant sections of the bill that deal with questions such as tenant-landlord ability to negotiate a rent increase.

The Chair: Perhaps we can talk about that when we come to that section.

Mr Duncan: It's salient to this motion because this motion references sections 118 to 134. I don't intend to debate the future amendments, but we believe the only appropriate motion to support in this section of this bill is to vote against 116 because it's the heart of the bill. We will be proposing amendments to some of the sections that are referenced here later on but feel that section 116 is not amendable. We understand what the third party is trying to achieve. We don't believe they're achieving it by this particular amendment.

Mr Silipo: I appreciate Mr Duncan's stated intent. I just would say to him that in fact it surprises me. I assume from what he said that they will not be supporting this amendment. He didn't say that, but I assume from what he said that they will not be. I find that a bit troubling because what this amendment does is allow more or less the current structure to exist. When we get to the other

amendments that he has, I believe I'm going to be supporting all or most of them, so that should give him some comfort.

We agree with respect to how wrong section 116 in the bill is, and if this amendment fails, certainly I will be voting against section 116. But if there is a way — and obviously there is, because this amendment is in order — to amend the legislation in a way that continues the existing balance and the existing protection that tenants have if they walk into an apartment that was previously rented and are able to do so at the last lawful rent as opposed to an increased rent that the landlord will decide, I am having a little bit of trouble understanding why my Liberal colleagues would have trouble supporting that amendment. I understand why the government members aren't going to support it. I'm having increasing trouble understanding why the Liberal members would have some trouble supporting this amendment.

The Chair: Mr Duncan, I will give you the floor, but just so you're clear, you've referred to your proposed amendments for 116, which are 128 and 129. You'll have time to speak. I will tell you that I will be saying that those motions are out of order.

1130

Mr Duncan: I understand.

To my colleague in the third party, you're proposing in this section "adjusted by any of the grounds for an increase or decrease in rent set out in sections 118 to 134." But later on in your amendments you simply say, "Vote against all those sections." We understand and support your intent, but there are some issues we would like to discuss later on in those other sections.

Mr R. Gary Stewart (Peterborough): I just have to make one comment on a comment that Mr Silipo made. The comment was "Maintain the system as we have it today." I guess that's classed as status quo. If you look back at what's happened over the last five years, and longer than that, there have not been a lot of units being built by the builders. So I would suggest to you that the present system may not necessarily be working very well as far as increased new accommodations are concerned. I'm a great believer in making some change that might enhance that, and I believe this will do that.

The other comment I'd like to make is that I don't know why we all believe that landlords are stupid. Are landlords going to leave their apartments vacant for long periods of time because they don't feel they can get this so-called increase in rent that you're suggesting is going to happen? I don't believe landlords are stupid. I believe landlords are going to try and rent those units. They're going to be able to negotiate — and I use the word "negotiate" — the rent between the new prospective tenant and themselves.

The other thing I believe it will do is it may well indeed keep the rents down because tenants will not be moving in and out of apartments two or three times over a period of a couple of years. Every time a tenant moves out, you know that the landlord has to refurbish that accommodation as soon as they move out. I believe this type of legislation may suggest to tenants: "Hey, you've got to stay where

you are. You're getting a good rent, you're getting good accommodations." The idea of going in for a couple of months, paying a couple of months' rent and then stopping and leaving and looking for the next one may be deterred.

I can't go along with maintaining, as you comment, the system as we have it today because I believe the system as we have it today is not working.

The Chair: Further debate? I'll ask for a vote on the motion by Mr Silipo. Shall the motion carry? All those in favour? All those opposed? The motion is defeated.

Mr Duncan, as I indicated, I don't believe the next two proposed amendments are in order. I think you have acknowledged that.

Mr Duncan: We acknowledge that. We appreciate the opportunity to have debated this section of the clause in the time we have had, based on the government's amendments.

The Chair: Shall section 116, as amended, carry? All those in favour? All those opposed? Section 116, as amended, carries.

Mr Duncan, you're going to have to help me. The committee has agreed to debate section 146. I assume that includes the amendments set forth on pages 162, 163, 164, 165 and 166.

Mr Duncan: That's correct.

The Chair: I'm going to have to ask for consent on that, to clarify it, because we did say section 146, not section 146.1. I ask for unanimous consent that we debate section 146 and the amendments in the package from page 162 through to 166. All in favour? There is unanimous consent.

We will then proceed to debate on section 146, to which there are no amendments. Is there debate on section 146?

Mr Duncan: We are proposing an addition. We're proposing to add a section.

Mr Gilchrist: That would be a new section.

The Chair: I believe that would be a new section.

Mr Duncan: All right.

The Chair: If there is no debate on section 146, shall section 146 carry? All those in favour? All those opposed? Section 146 carries.

We will now proceed to the proposed motion of the Liberals by Mr Duncan which is on page 162, section 146.1.

Mr Duncan: Thank you to the government and the third party for supporting unanimous consent to deal with this. That was the original intent this morning when we discussed it.

This is the so-called OPRI issue, that is, outstanding work orders on apartments and an ability of a landlord.

I move that the bill be amended by adding the following section:

"Withhold rent

"146.1 If there is an outstanding work order under section 15.2 of the Building Code Act, 1992 with respect to a rental unit and the landlord has not complied with it within the time required under it, the tenant of the rental unit may

withhold his or her rent from the landlord until the landlord complies with the work order."

Simply put, we believe that the so-called OPRI, that is, when there's an outstanding work order, the ability to withhold a rent increase with outstanding work orders will help force compliance with the Building Code Act. There were many submissions made by different organizations with respect to this issue and we felt those submissions made good sense. This is a tool that allows both provincial and municipal authorities, I suppose, the opportunity to enforce another government statute, the Building Code Act, in a more meaningful sense.

We believe doing away with this particular right, or this particular clause or ability, if you will, is detrimental — not only strictly speaking from the rental housing market's perspective, but also to the ability of municipalities to effect, implement and maintain the building code. Therefore we have proposed an amendment to this section of the bill to deal with that issue and respectfully submit that this is the appropriate section and the appropriate way to do that.

Mr Gilchrist: If I may paraphrase, Mr Duncan, this would be another attempt to reinstate what are called OPRI's in a slightly different form; in fact, go beyond the current system of orders prohibiting rent increases that is being replaced in this bill with large fines for landlords who fail to comply with certain orders.

Let me just share with Mr Duncan some of the statistics that might clarify why we will be opposing his amendment. In 1996, for example, there were 1,678 OPRI's issued. However, 48% of them were still in effect early this year, in February 1997. Of all 11,000 OPRI's that have ever been issued under the Rent Control Act, which is now five years old, 27% still remain outstanding. Ninety per cent of the OPRI's that take effect are in effect for more than 90 days, if they're cleared at all. That indicates the limited success OPRI's have had in encouraging landlords to comply with work orders in a timely fashion.

1140

Quite frankly, your amendment goes further in interfering with the rent stream of landlords, which may very well be the source of income to do the work orders you're asking them to carry out, to fulfil. It also fails to recognize that if the landlord's penalty in the alternative, as we're proposing in this bill, is \$50,000 for an individual or \$100,000 for a corporation — my tradeoff is to forgo a few hundred dollars and to pay \$50,000 and be in contempt of an order. Personally and on behalf of the government, we believe landlords will be far more likely to follow any order that's issued by a municipality, or by the province for that matter.

We've put other changes in place. For example, property standards officers will no longer have to issue a warning or a notice of violation if there's non-compliance; they can immediately issue a work order. The clock starts ticking on the ability to levy that fine.

In a far more timely fashion, and with far bigger teeth, the government will be able to go in there and ensure that any health and safety aspect of operating a building can be

dealt with, and we believe in a means which will be far more likely to encourage the timely acknowledgement of the landlord's obligations in that matter.

We honestly believe your amendment would weaken the powers that are available and would take us back close to the status quo, which, as I have read with those numbers, has clearly not been working.

Mr Duncan: Had there been a commitment to a minimum fine, there might be some compelling reason to support your point of view. We had evidence presented to us with respect to fines, and fines that have been provided, that in fact you can set them as high as you want, but if there's no minimum, then the teeth that you've alluded to, in our view, will not suffice.

I think the other point that needs to be made here is that from the presentations we've heard from building officials, from municipal officials, our view is that you can leave in the OPRI system and put in whatever additional protections you want. You've argued that there hasn't been good enforcement. We would agree. Municipalities have difficulty enforcing their bylaws and the building code in the best of circumstances. Given the huge cuts that municipalities have had from the provincial government and given the huge property tax increases that they're faced with in the future, we think this is a cost-effective way of trying to enforce bylaws.

Those around the table who have sat on municipal council, who have participated in discussions around bylaw enforcement, know that in the best of circumstances bylaw enforcement is difficult. The fact that there has not been, I suspect, the kind of enforcement that the government envisioned in 1992 when it originally introduced this is not in my view logically justifiable in terms of removing it.

Adding the sections you've proposed, in our view, will not substantially increase compliance, number one. Number two, had you put minimum fines in — and we'll be dealing with minimum fines in another section — we might have supported it, but they're not there. As a consequence, we think that maintaining OPRI is just another tool that municipal officials will have in terms of enforcing the building code, and we think it's a mistake to not provide for them.

The Chair: Debate? I'll ask for a vote.

The motion of Mr Duncan on section 146.1: Shall it carry? All those in favour of the motion? All those opposed? The motion is defeated.

We will proceed to the New Democratic motion, which is one motion that goes for quite a few pages.

Mr Silipo: It's a long one.

The Chair: Well, Mr Silipo, we have to go through this, so the floor is yours to read the motion.

Mr Silipo: I move that the bill be amended by adding the following sections:

"Order prohibiting rent increase

"146.1(1) The director shall issue an order prohibiting a rent increase respecting a residential complex or a rental unit in it if,

"(a) the director has received a work order under section 34, the period for compliance with it has expired and the minister has not commenced a motion under the Residential Rent Regulation Act in respect of that work order;

"(b) the director has received a work order under section 35; or

"(c) a work order under section 37 is in effect and the period for compliance with it has expired.

"Idem

"(2) The order shall provide that while it is in effect,

"(a) the rent charged for the residential complex or the rental unit, as the case may be, shall not be increased;

"(b) if a notice of rent increase respecting a rental unit affected by the non-compliance with the work order was given before the order prohibiting a rent increase takes effect and no increase has been taken under that notice, the notice is void; and

"(c) no notice of rent increase shall be given respecting the residential complex or the rental unit, as the case may be.

"Effective date

"(3) Subject to section 146.2, the order is effective 30 days after it is issued.

"Contents of order

"(4) The order shall contain,

"(a) the municipal address or legal description of the rental unit or residential complex affected;

"(b) reasonable particulars of the work order that is the subject of the order prohibiting the rent increase; and

"(c) the fact that the order prohibiting the rent increase is effective 30 days after it is issued unless it is stayed or rescinded before that time.

"Order stayed

"146.2(1) The director shall stay an order prohibiting a rent increase if he or she is advised before the order is issued that an appeal of the work order that is the subject of the order prohibiting a rent increase has been filed.

"Effect of staying

"(2) If an order prohibiting a rent increase respecting a residential complex or a rental unit in it has been stayed, the landlord may increase the rent charged for any affected rental unit or give a notice of rent increase respecting any affected rental unit in accordance with this act.

"Stay lifted

"(3) The director shall lift a stay of an order prohibiting a rent increase if the appeal of the work order is withdrawn or discontinued or if,

"(a) the director receives the decision of the appeal of the work order that is the subject of the order prohibiting the rent increase;

"(b) the appeal decision confirms the work order, changes its terms or changes the time for complying with it;

"(c) all avenues of further appeal are exhausted or the director does not receive a notice of appeal within 15 days after the date the appeal decision is issued; and

“(d) if the appeal decision changes the time for complying with the work order, the new time period has expired.

“Amendment

“(4) If the appeal decision changes the terms of the work order, the director may amend the order prohibiting the rent increase to reflect that change.

“Effective date

“(5) If the appeal decision changes the time for complying with the work order to a period that expires more than 30 days after the order prohibiting a rent increase was issued and the director lifts the stay of the order prohibiting a rent increase, for the purposes of subsection (6), the order prohibiting a rent increase shall be deemed to be effective on the day the director lifts the stay and not as provided in clause (6)(a).

“When stay lifted

“(6) If the director lifts the stay of an order prohibiting a rent increase,

“(a) the order shall be deemed to have been effective as of the day that is 30 days after it was issued;

“(b) any notice of rent increase respecting an affected rental unit issued during the period that the order would have been effective but for the stay shall be deemed to be void; and

“(c) any increase in the rent charged for an affected rental unit that took effect during the period that the order would have been effective but for the stay shall be deemed to be rent charged in excess of that permitted to be charged.

“No offence

“(7) Subsection (6) does not operate to make a landlord who increased the rent charged for a rental unit in accordance with subsection (2) guilty of an offence.

“Rescission of order

“146.3(1) The director shall issue a notice rescinding an order prohibiting a rent increase if,

“(a) he or she receives notice from the issuer within 30 days after the day the order prohibiting the rent increase is issued and that notice states that the work order was lifted before the day the order prohibiting the rent increase came into effect;

“(b) he or she receives a decision on an appeal of a work order that is the subject of the order prohibiting a rent increase and the decision quashes or rescinds the work order; or

“(c) he or she is satisfied within 30 days after the day the order prohibiting the rent increase is issued that there is a clerical error in it and that if the order is not rescinded a person will be unfairly prejudiced because of the clerical error.

“Idem

“(2) The director may issue a new order prohibiting a rent increase if he or she rescinds an order because of a clerical error and the period for compliance with the work order has expired.

“Withdrawal of order

“146.4(1) The director shall issue a notice withdrawing an order prohibiting a rent increase if he or she receives

notice from the issuer after it comes into effect and that notice states that the work order was lifted.

“Idem

“(2) A notice under this section shall provide that the order is of no further effect as of the date the notice is issued.

“Effect of notice

“(3) A landlord who receives a notice withdrawing an order under this section may issue a notice of rent increase and increase rent in accordance with this act any time after the notice is issued.”

A long amendment, but the essence of it is to maintain what I guess in the jargon are known as OPRIs. For the general public, they are orders prohibiting a rent increase. Those are things that this legislation that the Conservative government has introduced and seems to be bent on passing is removing. They are getting rid of orders prohibiting a rent increase. These orders freeze rents, prohibiting all increases while landlords have committed a property standards violation. What the government is doing we believe will further reduce the incentive of landlords to comply with property standards.

When you couple that with the fact that, as a result of the downloading on to municipalities, the municipalities are going to have less money to put into enforcement, what we're likely to see, if the legislation stays as the government has drafted it, is more property standards violation with less enforcement.

What we are attempting to do is to bring back into the system, to maintain at least, some semblance of order, to maintain a balance that provides for appropriate avenues of appeal or recourse where the landlord feels that is justified, but to continue the essence of prohibiting rent increases while there are outstanding orders and while there are outstanding property standards violations.

That is something that we believe has worked well. There certainly can be some improvements to that; there can always be some improvements. But simply disbanding it, simply going, as the government is going, to the fine system without any kind of minimum fines, as has been pointed out, I'll wait to see the day when those increased fines will have any impact on this whole issue.

What we need is a system that says that if there are property standards violations, the landlord is going to suffer until he or she gets those in place by not being able to get increases in the rent. If they feel those orders are unjust, they have recourse and would continue to have recourse under this amendment to all of the appropriate vehicles of appeal to deal with those issues in the way they should be dealt with, and not by simply throwing out that whole process and just relying on some notion of fines as the way to do it.

The Chair: Debate? Shall the motion, as put forward by Mr Silipo, carry? All those in favour of the motion? All those opposed? The motion is defeated.

Ladies and gentlemen, the next section which we have agreed to proceed with is section 200. Without showing bias one way or the other, I expect the debate on that will be substantial. I'm in the committee's hands. We've got

about five minutes left. We can start, or we will perhaps recess until 3:30.

Mr Tom Froese (St Catharines-Brock): Were we not supposed to vote on 146?

The Chair: We did that, Mr Froese.

Mr Froese: We did?

The Chair: Yes.

The committee is recessed until 3:30.

The committee recessed from 1153 to 1531.

The Chair: We'll reconvene the meeting. I believe the last section we had agreed to move ahead on was section 200. To assist members of the committee, if you could turn to page 210 of your binders, there are three motions put forward with respect to section 200, the first being Mr Duncan's motion.

Mr Duncan: I move that subsection 21(3) of the Human Rights Code, as set out in subsection 200(1) of the bill, be struck out and the following substituted:

"Prescribing business practices

"(3) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination is not infringed if the landlord uses credit checks, credit references, a rent deposit, or rental history in selecting prospective tenants, or if a landlord requires guarantees on the basis of these criteria. Absence or unavailability of such credit records, credit references, or rental histories shall not be used as a factor in selecting prospective tenants.

"(4) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation is not infringed where a form of application for residential accommodation is used or a written or oral inquiry is made of an applicant's income where such information is used in a manner which does not result in discrimination contrary to this act."

We had a good discussion of this issue earlier in the day. We have listened to the arguments that have been put forward both by the government in this case and by delegations that have appeared before us. We have attempted through this amendment to preserve the integrity of the code's current provisions, which is what the government indicated its objective was.

Again I want to stress we do not object to landlords doing credit checks, asking for landlord references and asking about income. We do not object to landlords refusing to rent to someone who cannot reasonably be expected to pay rent. We do, however, object to landlords disqualifying all social assistance recipients and virtually all single mothers, young families and persons with disabilities on the basis of the common 30% rent income ratio. Our intention here is to clarify what the government has said and to provide clear direction in the statute. Members of the committee have heard how the differing interpretations on this can result in differing opinions.

We think this amendment is fair. We think it's balanced. We think it provides for the needs of landlords. We think it provides adequate protection for tenants and adequate protection for prospective tenants who may be on social assistance or some other form of limited income.

Accordingly, we've put this motion forward believing that this attempts to achieve what the government has said is in place. We think it does it in a manner that will clear up any confusion that could result from regulatory changes that will be forthcoming from the government, and we think it says clearly in legislation what we believe the government has said is its intention.

Mr Silipo: Could I start with a question? I have some comments to make but I want to be clear first of all. It's a question to Mr Gilchrist. The government seems to be relying a lot in dealing with the concerns we've expressed — and particularly various groups appearing before the committee have expressed on this issue in terms of the discrimination against people on social assistance. The government continues to say that they don't want that to happen, that what they will do is deal with these concerns through regulation. I would like Mr Gilchrist to please explain to us when we might see these regulations. Is he prepared to commit to those regulations being released in draft form for public consultation prior to being adopted by the cabinet, and what other light could he shed on this whole process?

Mr Gilchrist: I am indeed pleased to tell you that we have had discussions and we're quite open to the idea of circulating draft regulations to allow people time to digest the specific protections we will have put forward and to offer any improvements they care to at that time.

Just as a general comment about this motion, and in response to your comments, if anything we think this motion as put forward by the Liberals is probably not detailed enough in terms of being able to assure both sides that there will be a process that is fair and reasonable. The motion embodies that as one of its intentions but I don't think it goes far enough in delineating precisely how the assessment would be made that the landlord is not discriminating.

I will tell you categorically, Mr Silipo, it is not our intention, nor will we allow it to happen in any way, shape or form, to reduce the protections currently afforded to tenants in the sections of the Human Rights Code that deal with prohibition on the basis of receiving social assistance. In fact, I am 100% positive we will be able to satisfy your concerns both in that regard and in regard to the fact that we will be adding another protection. The way we will do that I am sure will be detailed enough to satisfy any reasonable person in terms of how the existing code will not only continue to afford the protections it has now but offer new ones.

I will certainly undertake to circulate those draft regulations prior to their acceptance by cabinet and I would welcome your comments at that time.

Mr Silipo: Just further, is there any sense about the timing, as to when those draft regulations might be available?

Mr Gilchrist: Aside from later this fall, Mr Silipo, I couldn't offer a specific time, no.

Mr Silipo: I have to say that in the whole big picture that section 200 is, there is at least a relatively small amount of comfort that I take from what Mr Gilchrist has

said in the sense that at least the regulations will be out there. People will have a chance to see them and do what is clearly a far second best to what we should be doing here, which is to not proceed with the section as the government has drafted it and at the very least to adopt either the amendment that the Liberal caucus has put — although I have to say I have some concern and some questions about why they include rent deposit in their motion or their amendment — or the one that we have put.

But if the government is not prepared to adopt either of those, I want to, without belabouring the point too long, because it doesn't seem to be making any difference, still underline the very real concern that exists. You can't adequately deal with this issue through regulations. Obviously we are all honourable members here and so we have to take each other's words, at least on the public record, at face value as they are given. While you may be completely sincere in your efforts to detail the protections here, what you are doing — and again, it's not because I'm saying it but because the experts in the field from the tenants' organizations and particularly the Human Rights Commission have said to you and are saying to you that this is not the way you should do it. First of all you should not deal with these basic protection issues under regulation, you should deal with them under legislation. As legislators, we all know the big difference therein.

1540

Second, what you are doing in going through the regulation is first of all creating a problem and then having to go to a whole convoluted set of regulations to fix the problem. It's like the harassment issue we were talking about, although this is probably even more complex. What you are doing, as I understand it — and again I say this with all due respect — is misinterpreting. If your intent is what you've stated, then you're misinterpreting what section 21 of the Human Rights Code does and what section 200 does in amending that. As people who are far better experts at this than I have explained, section 21 of the Human Rights Code, which you are amending here, permits discrimination under particular circumstances. There are already two particular ways in which some discrimination, to use the legal term, is allowed through section 21 of the Human Rights Code. You are adding a further area for discrimination.

Now, you're going to say you're going to qualify that through regulations, but the basic premise you are passing if you adopt the legislation as you have it is to add another means, in effect, of discrimination, because you take actions that are otherwise discriminatory under section 2 and you make them legal. You do that by stating that using income information would not be considered to be an infringement of the Human Rights Code, rather than stating what would be an infringement. I assume from what Mr Gilchrist has said and what all of you I gather have said on this that the regulations are where you're going to sort out what is an infringement and what isn't. It's not just a backwards way of doing it; it's a way of, as I say, creating a problem, creating an issue, creating an addi-

tional area of discrimination, and then trying to qualify that, if you will, through regulations.

It's not good legislative drafting, but more important than that — this is not about neatness; this is about people's basic rights — what you are doing is opening up the door to further and greater discrimination by landlords, particularly for people on social assistance. That's wrong, and if you believe, as you say, that you don't want to do that, then what you should be doing is not dealing with this through regulations, but taking another look at this. If you're not prepared to just withdraw the section as you have it, then probably even better than just withdrawing the section as you have put it, take the amendments that either we or the Liberals have put forward, both of ours based on what CERA and other groups have said to us, and in effect listen to what is being said, not just by the tenants' groups but by the experts whom we all have to abide by in this area, in terms of the Human Rights Commission, what the head of the Human Rights Commission is telling us.

This morning I found Mr Gilchrist's comment with respect to Mr Norton to be a little odd in saying, "Are we considering Mr Norton now to be an expert in the area of human rights?" Well, yes, that's his job, that's what you appointed him to. That's what we supported his appointment for, because we thought he was eminently qualified for that, not just personally because of his whole background, but because, as I said this morning, when Mr Norton writes the kind of letter he writes, when he makes the kind of presentation he does, when he points out that what you are doing here is adding another ground of discrimination which you then are going to try and qualify through the regulations, what you are doing is in effect nullifying what's in section 2 of the Human Rights Code, which prevents discrimination against people on social assistance.

Now you're allowing it under this area, because the only people who will be affected in this way under this income information system will be people on social assistance. He and we and people who have appeared in front of this committee have been very clear that none of us is saying that landlords should not have the right to do credit checks, to ask for references to satisfy themselves that tenants are reasonably going to reasonably be expected to pay the rent. We're not opposed to that. We're not saying that shouldn't happen. That exists now, we believe, and what you are doing here is disqualifying all social assistance recipients, and within that virtually all single mothers, young families and persons with disabilities, on the basis of what has been used up to now, this common 30% rent-to-income ratio, and that's a major problem.

What we're saying to you is, you don't have to create that problem. You could still fix this now. I don't know what you're going to do. I'm assuming if this morning's track record continues that you'll simply vote against this Liberal motion and the one I will put, but I hope you will at the very least reflect some more on this. I know, Chair, that we will meet again as a committee to deal with this bill next week. I wonder, almost as a last resort here, if

there is any chance of the government members — I ask this of Mr Gilchrist — agreeing perhaps to set aside this particular issue and this section until the committee meets next week, with a view to the government members reflecting on this a little bit more so that maybe there can be some way to convince people about how wrong what you're about to do is.

Mr Gilchrist: Mr Silipo, we've had plenty of opportunity to reflect on the comments you and other have made throughout the hearings, to reflect on what legal counsel has offered in terms of the merits one way or the other, to reflect on the points raised by Professor Trebilcock, a nationally noted expert on human rights issues, and we are very confident that the framework we've put out here will guarantee that all of the objectives you've stated will be met. I don't think there's a need to reinvent the wheel.

The Chair: Mr Gilchrist, if I can just interrupt you, just so I'm clear, are you asking that section 200 be stood down?

Mr Silipo: I was asking Mr Gilchrist if there was any chance that that could happen, that that might in any way leave open the door that the government members would reconsider. If he's saying no, I'm not going to push the point in terms of making a formal request, but I was making the request to him, as the spokesperson for the government, yes.

Mr Gilchrist: Just to conclude, I have every confidence that we will be able to satisfy those concerns. I genuinely disagree with you that this takes anything away from the Human Rights Code. We have heard no one in all of the hearings, nor yourself, suggest that it is not absolutely positively legal today for landlords to ask about income information. You can cite no statute, you can cite no prohibition anywhere that precludes a landlord asking that question today. You also cannot draw any reference to the existing Human Rights Code where asking that question is adjudged in any way to determine whether the information which has been ascertained is then misused and has become the source of discrimination. We are adding another section to the Human Rights Code. We are adding the ability for the commission to now intervene in a case where income information is used to discriminate. They do not have that power today.

Each of us will not convince the other, but I can assure you that genuinely is our perception and it genuinely is our goal that we preserve all the existing protections and add a new one, namely, that the use of income information, which is currently legal, will not give rise to discrimination once this bill is passed.

1550

Mr Silipo: That obviously is a no, and I hear that. I don't like what I'm hearing. I just conclude at this point by reminding Mr Gilchrist, as I'm sure he already knows, that even the expert that he referred to, Professor Trebilcock, I understand pointed out to the committee that "addressing this important issue through regulation is at variance," to quote him, "with accepted norms of transparency and accountability in a representative democracy." So even the person you are relying on has said to

you that going to this issue by regulation is not what you should be doing. This is a basic issue that should be dealt with in terms of the protections in the legislation. By going the regulation route, you are diminishing the rights of a certain group of Ontarians and you are also going to have to set up, if your intent is correct, an incredible set of regulations to try and define virtually every particular circumstance, which I think is just going to be untenable.

Mr Duncan: We simply believe that the regulations are conflicting with what you've said in other parts of the act in terms of wanting to simplify processes. I would submit to the government members that when you get down to defining these regulations — take, for example, "income criteria when used in combination with other measures." How are the regulations going to address that? Why not simply clarify it in the statute?

Mr Silipo is quite correct when he quoted Professor Trebilcock. He said the regulation is not the appropriate way to go; it's not clear, it's not transparent. So if your intent is to clarify and to make the process simpler, to make dispute resolution simpler, go by the act.

I'll stand down my amendment if you propose wording to the act to this effect that you think makes more sense. We have consulted experts as well about this. If you're not prepared to accept this and your intention is to make the whole housing market regulation clearer, simpler, as you've made the point, then accept this. The regulations will become cumbersome and complex, and I really feel bad for landlords who are going to be stuck in this system. We're attempting to protect how income is used in decisions in a way that's clear and transparent, to use Professor Trebilcock's presentation. We think it's reasonable and we ask the government, given your stated intention, if our wording's inadequate and you see problems with our wording, then stand this down and bring back wording and put it into the legislation if that's your intention.

The Chair: Are you making a request that this be stood down, or are you simply asking —

Mr Duncan: No, I'm just saying —

The Chair: It's a statement?

Mr Duncan: That's a statement.

The Chair: Further debate? If there is no further debate, I will ask for a vote on Mr Duncan's motion.

All those in favour of Mr Duncan's motion? All those opposed? The motion is defeated.

We will move to page 211, which is a New Democratic motion.

Mr Silipo: I move that section 200 of the bill be struck out and the following substituted:

"Human Rights Code

"200. Section 21 of the Human Rights Code is amended by adding the following subsections:

"Business practices

"(3) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation without discrimination is not infringed where a landlord uses credit checks, credit references or rental history in selecting prospective tenants or where a landlord requires guarantees on the basis of these criteria.

"Same

"(4) Subsection (3) does not permit a landlord to use the absence or unavailability of credit records, credit references or rental histories as a factor in selecting prospective tenants.

"Same

"(5) The right under section 2 to equal treatment with respect to the occupancy of residential accommodation is not infringed where,

"(a) a form of application for residential accommodation is used or a written or oral inquiry is made of an applicant regarding that applicant's income; and

"(b) that information is used in a manner that does not result in discrimination contrary to this act."

The Chair: Thank you, Mr Silipo. Do you have any comments?

Mr Silipo: Just briefly, Chair, again, we have put this amendment on the basis of the advice we have received, that the committee in fact has received, that reflects I think what CERA and others have said to this committee. It clarifies what landlords can do and that they can in fact seek certain information but that has to continue to be done subject to the restrictions in the Human Rights Code. So it continues to provide the basic protections and it would obviate the need for this to have to go through the regulation process. It would quite frankly simplify as well as continue to provide the basic protection that we say tenants should continue to have.

From what I'm hearing you as government members say you want to continue to see there, the way you're going to do it will not work. This will.

The Chair: Debate? Questions? If there is no further debate or questions, I will ask for a vote on the motion. All those in support of the motion? All those opposed? The motion is defeated.

We will move to page 212, which is a Liberal application. Mr Duncan, you have a motion?

Mr Duncan: Mr Chair, I move that clause 48(a.1) of the Human Rights Code, as set out in subsection 200(2) of the bill, be amended by striking out "income information, credit checks, credit references, rental history" in the second and third lines and substituting "credit checks, credit references, rental history, a rent deposit."

There's not much more to add. This is really consequential to the other amendment that we have proposed. We will vote in favour of it.

The Chair: Debate? If there's no further debate, I will ask for a vote on Mr Duncan's motion. All those in favour? All those opposed? The motion is defeated.

Shall section 200 carry? All those in favour of section 200? All those opposed? Section 200 has carried.

Many members wish to move ahead, so we will revert to the beginning of the binder that I hope is before you. There are some amendments with respect to section 1, page 1 of the package that's before you. It is a government motion. We all have the same package, I hope?

Mr Gilchrist: No. We've already discovered one missing from the package we got.

I move that the definition of "mobile home" in subsection 1(1) of the bill be struck out and the following substituted:

"'mobile home' means a dwelling that is designed to be made mobile and that is being used as a permanent residence. ('maison mobile')"

If I could just speak briefly for that, it ensures that the definition of "mobile home" clearly differentiates between the actual use of a dwelling and the intended use of a dwelling based on its construction, and that the coverage of the act focuses on the actual use of the dwelling rather than the intended use. This came up a number of times in the hearings and to the best of our knowledge it has the support of both the residents and the landlords in mobile home communities.

The Chair: Discussion? Debate? All those in favour of the motion? Opposed? The motion is carried.

Page 2 is a government motion.

Mr Gilchrist: I move that the definition of "non-profit cooperative housing corporation" in subsection 1(1) of the bill be struck out and the following substituted:

"'non-profit housing cooperative' means a non-profit housing cooperative under the Co-operative Corporations Act."

Again, very briefly, this is a technical amendment that reflects terminology used in the Co-operative Corporations Act, so that the definitions are identical.

1600

The Chair: Debate? All those in favour? Opposed? The motion is carried.

Page 3 is a government motion.

Mr Gilchrist: Subsection 1(1). French definition of "règles."

I move that the definition of "règles" in subsection 1(1) of the French version of the bill be amended by striking out "la Commission" in the second line and substituting "le Tribunal."

Again, this is simply an amendment to correct the French translation of that provision.

The Chair: Discussion? All those in favour? Opposed? The motion is carried. Page 4.

Mr Duncan: I move that subsection 1(1) of the bill be amended by adding the following definition:

"'discounted rent' means rent in an amount below the current lawful rent."

This is related back to section 113 which we discussed earlier and our fears about how this statute in our view ultimately undermines the ability of tenants to be protected in an unfettered manner from increases even in the post-decontrol period, a period that some have called "recontrol." We think the provisions contained in sections 116 and 113, taken together, will allow a scenario to be set up where, once a unit becomes vacant, a landlord can set a new rent at any amount and then discount the rent.

Let's say, for argument's sake, you set the new rent at \$10,000 a month — it's currently \$600 — and then you discount it to the first tenant at \$1,000 and then you can raise it as you want up until that maximum. So the definition of "discounted rent" to the government members in

terms of understanding the concerns of tenants' groups with respect to vacancy decontrol — because I believe a number of government members honestly and sincerely feel they're providing control under a new scenario — will in our view result in a scenario where that new rent that is established, no matter what it is, can be discounted back to some other level, which will give a lot of leeway in terms of what increases can and cannot occur.

We think it's important for all concerned to understand the significance of those two points, and therefore would suggest, as we did earlier — it's too late. We provided this definition of discounted rent so that the issue could be discussed, but clearly the government is intent on proceeding with the definitions of discounted rent and sections 113 and 116. We think it's important to understand that and we think that ultimately this bill effectively removes all form of price regulation from the market.

The Chair: Discussion? Debate? All those in favour of this motion? Opposed? The motion is defeated.

Shall section 1, as amended, carry? All those in favour of section 1, as amended? Opposed? Section 1, as amended, has carried.

We will turn to page 5.

Mr Duncan: I move that subsection 2(4) of the bill be amended by striking out "other than" in the second line and substituting "except."

The intent of this amendment has already been debated in sections 36 and 200. In the event that the government wasn't prepared to deal with sections 36 and 200 at the beginning of the hearings, we wanted to put this in to force discussion around those issues. We've done it. I'll move it.

The Chair: Discussion? Debate? All those in favour of the motion? Opposed? The motion is defeated.

Shall section 2 carry? Section 2 is carried.

Page 6.

Mr Gilchrist: I move that clauses 3(a) to (c) of the bill be struck out and the following substituted:

"(a) living accommodation intended to be provided to the travelling or vacationing public or occupied for a seasonal or temporary period in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast vacation establishment or vacation home;

"(b) living accommodation whose occupancy is conditional upon the occupant continuing to be employed on a farm, whether or not the accommodation is located on that farm;

"(c) living accommodation provided by a non-profit housing co-operative to tenants in member units."

This simply clarifies that there are a number of situations in the province, including properties owned by the Ministry of Natural Resources, that are provided to the travelling or vacationing public on a seasonal basis. We think it would be inappropriate to constrain the operators of those seasonal camps by somehow suggesting that this is permanent accommodation subject to the other protections of the Tenant Protection Act. It provides a possible exemption for seasonal trailer parks if that is their sole

use, and an exemption for living accommodation provided for farm workers during the season they're employed on a farm.

The Chair: Debate? All those in favour of the motion? Opposed? The motion is carried.

Page 7, a Liberal application.

Mr Duncan: I move that subclause 3(k)(ii) of the bill be struck out and the following substituted:

"(ii) the average length of the occupancy of the occupants of the building or structure in which the accommodation is located does not exceed six months; and."

You'll recall that we had presentations made to us by St Monica House. I believe they appeared in Hamilton. This revolves around the period of occupancy and gives more clarification to it in terms of those situations where there are exemptions. These representations were made to the committee by groups that deal with people in these sorts of circumstances. Subsection 3(k) deals with "living accommodation occupied by a person for the purpose of receiving rehabilitative or therapeutic services agreed upon by the person and the provider of the living accommodation." This deals with those particular circumstances.

The Chair: Debate? Mr Silipo. I might alert you that yours is identical.

Mr Silipo: Yes, that's exactly my point. We have an identical amendment, so obviously I'm supportive of this one and we believe strongly that the six-month period is much more appropriate than the one-year period that's in the present bill.

Mr Gilchrist: We were quite surprised that the two parties brought that forward because we had a number of groups suggest that the wording that's in the bill right now did not go far enough. For women's shelters and people who are patients at drug rehabilitation clinics, we had some people suggest that instead of one year, it should be extended to two years. I certainly recognized there was one group that thought they would be somehow constrained by having it one year, but we really believe, particularly in the case of women's shelters, that the one-year period would be more appropriate.

The Chair: Debate? All those in favour of Mr Duncan's motion? Opposed? Mr Duncan's motion fails.

Mr Silipo, I think your motion is repetitive. We'll turn to page 9, which is Mr Duncan's motion.

Mr Duncan: Clauses 3(l) and (m). I move that section 3 of the bill be amended by striking out "and" at the end of clause (l) and by striking out clause (m).

These were technical amendments. We felt that clause (m) should be taken out, that it's too broad, and that if the government intends to prescribe any other class of accommodation, they ought to do so publicly now. We just felt that it left too much scope.

Mr Gilchrist: I would simply offer that the first section deals with respite homes, but (m) is designed so that at any point in the future — and the first thought that comes to mind might be different classifications for student housing. The member will remember we had a number of presentations dealing with that topic, and it just affords some flexibility in the years to come for govern-

ments to create different classifications of housing to deal with specific concerns, such as student housing.

The Chair: Debate? I will ask for a vote on Mr Duncan's motion. All those in favour? All those opposed? The motion fails.

Shall section 3, as amended, carry? All those in favour of section 3, as amended? All those opposed? Section 3, as amended, carries.

We'll turn to page 10 with proposed amendments to section 4.

1610

Mr Duncan: I move that subsection 4(2) of the bill be amended by inserting after "unit" in the third line "for a period of five years commencing on the day the first rental unit in the residential complex is first rented."

This will keep the five-year exemption from rent controls to newly constructed apartments. We believe that is appropriate and we believe the position the government has taken is incorrect. Again, this is key to the bill, the centrepiece of the bill, and we're prepared to move that.

The Chair: Mr Silipo, it's identical to yours.

Mr Silipo: Yes. As you know, we have an identical amendment to this. We believe strongly that the five-year time line that in effect exempts new buildings for five years from the provisions of rent control is the appropriate period of time rather than holus-bolus forevermore, as the government is doing. We think that's the system we should continue to keep.

The Chair: Debate? I'll ask for a vote on this motion. All those in favour? Opposed? The motion fails.

Turn to page 12, a Liberal application.

Mr Duncan: I move that clause 4(2)(a) of the bill be struck out.

This is the clause that puts a lifetime exclusion on new rental apartments. It's consistent with our last amendment, lifetime exclusion for rent controls, and as we indicated in the last amendment, we think the five-year provision is more appropriate.

The Chair: Debate? All those in favour of the motion? Opposed? The motion fails.

Page 13, a government motion.

Mr Gilchrist: I move that section 4 of the bill be struck out and the following substituted:

"Exemptions from rules relating to rent

"4(1) Sections 52, 53, 55, 56, 56.1, 87, 94 to 109, 113, 115 to 118, 121 to 133 and 178.1 do not apply with respect to accommodation that is subject to the Homes for Special Care Act or the Homes for Retarded Persons Act.

"Same

"(2) Sections 94, 107, 109, 113, 115 to 117, 121 to 129, 132, 133 and 178.1 do not apply with respect to a rental unit if,

"(a) it has not been occupied for any purpose before the day this subsection comes into force;

"(b) it is a rental unit no part of which has been previously rented since July 29, 1975; or

"(c) no part of the building, mobile home park or land-lease community has been occupied for residential purposes before November 1, 1991.

"Developmental Services Act

"(3) Sections 52, 53, 55, 56, 56.1, 87, 94 to 109, 113, 115 to 118, 121 to 133 and 178.1 do not apply with respect to accommodation that is subject to the Developmental Services Act and that is not otherwise exempt under clause 3(e)."

The amendment to this subsection is a consequential amendment to 56.1, the lifetime security of tenure, and 178.1, the tribunal's authority to correct a rent or related information incorrectly deemed lawful under the Rent Control Act or the Residential Rent Regulation Act. The amendment to subsection 4(2) is a consequential amendment to section 178.1.

The amendment to clause 4(2)(c) clarifies that the exemption from rent rules not only applies to rental buildings occupied before November 1, 1991, but also applies to mobile home parks or land-lease communities. It parallels the coverage in the Rent Control Act which provided for a lifetime exemption for these properties.

Mr Duncan: I wonder if the parliamentary assistant could explain to me 56.1 and 178.1 again, more clarification on them. I wasn't sure I understood how this differs.

Mr Gilchrist: We're adding the reference to mobile home parks or land-lease communities basically.

Mr Duncan: What about the section 56.1 that you're proposing?

"Security of tenure, severance, subdivision

"Where a rental unit becomes separately conveyable property due to a consent under section 53 of the Planning Act or a plan of subdivision under section 51 of that act, a landlord may not give a notice under section 49 or 50 to a person who was a tenant of the rental unit at the time of the consent or approval."

Mr Gilchrist: For example, if a mobile home park was converted to an individualized piece of property, we're giving the same protection that we have to tenants living in apartment buildings. You will recall we had a number of presentations, including a very poignant one in your community by someone who believed that the act as it was currently written did not protect her parents in a mobile home park where something like this took place. We believe this is in response to her appeal and to others we heard.

Mr Duncan: And 178.1?

Mr Gilchrist: We have also added a protection in mobile home communities that if it is discovered that an order made for a rent increase previously in the rent registry is found subsequently to be incorrect, based on incorrect information that was supplied, that could be rolled back or reversed for a tenant in a mobile home or a land-lease community as well.

The Chair: Debate? Questions? All those in favour of the motion? Opposed? The motion carries.

Shall section 4, as amended, carry? Section 4, as amended, carries.

Page 14, we're moving on to section 5. It's a New Democratic motion.

Mr Silipo: I move that subsection 5(1) of the bill be amended by striking out "134" in the fifth line and substituting "131."

This amendment would ensure that social housing tenants would be able to apply for rent reductions under all the other provisions of the legislation.

Mr Duncan: We support this amendment in principle, but I say to the government members of the committee, what you're doing in Regent Park and in the Glengarry units right now is moving to a form of shelter allowance. You're beginning to implement your shelter allowance commitment that was contained in the Common Sense Revolution. We think that's a bad direction to go in; we believe that there will be a forum for a larger debate on this. We will support the third party on this amendment, given what they are intending to do, but we submit to the housing communities out there and public housing that it's quite clear, based on what is happening in the pilot project in Regent Park and the pilot project in the Glengarry units, that we are now moving to a system of shelter allowance in Ontario, without a full public debate, without legislative change, without regulatory change.

The ministry just confirmed last week in the case of the Glengarry units that if a private developer comes forward with a proposal, the new landlord will be the private sector developer. That can only lead us to conclude that those 800 families who will be moved out of public housing into these new units will be given shelter allowances. We think it's a pilot project. It's an important debate, and we think we should have the debate, and we look forward to the government bringing forward legislative or regulatory changes that will allow for that debate in a more detailed form. We will, however, support the third party on this, given what they intend to do with this amendment.

The Chair: All those in favour of the motion? Opposed? The motion is defeated.

We'll move to page 15, which is a government motion.

1620

Mr Gilchrist: I move that subsection 5(1) of the bill be struck out and the following substituted:

"Exemptions related to social, etc, housing

"5(1) Sections 17 and 18, paragraph 1 of subsection 30(1), sections 31, 52, 53, 55, 56 and 56.1, subsection 76(2) and sections 77, 84, 85, 87, 90, 94 to 96, 101.1, 107, 109, 113, 115 to 117, 121 to 129, 132 and 133 do not apply with respect to a rental unit described below:

"1. A rental unit located in a residential complex owned, operated or administered by or on behalf of the Ontario Housing Corp, the government of Canada or an agency of either of them.

"2. A rental unit located in a non-profit housing project that is developed under a prescribed federal or provincial program.

"3. A rental unit provided by a non-profit housing co-operative to tenants in non-member units.

"4. A rental unit provided by an educational institution to a student or member of its staff and that is not exempt from this act under clause 3(g).

"5. A rental unit located in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis."

This section provides exemption to social housing units from most of the rent control provisions. The proposed amendment makes two changes. The first is that subsection 5(1) no longer exempts social housing units from section 108, entrance fees for mobile home parks, section 130, illegal charges, section 131, rent deemed lawful, and section 134, money collected illegally. Covering social housing with these provisions is meant to provide consistent treatment for all tenants.

Subsection 5(1) also parallels amendments elsewhere in the act by citing sections 56 and 101.1. Paragraph 5(1)2 sets new parameters for exemption for non-profit housing projects. It creates the authority to prescribe a list of federal and provincial housing programs for determining exemptions. This amendment will eliminate the chances of housing units which are not recognized by the government as being non-profit from receiving the parcel exemption. In other words, we are guaranteeing that all the tenants in social housing now are protected by those sections I cited earlier, 108, 130, 131 and 134, which I believe partially at least address the concerns you had cited in your previous proposed amendment, Mr Duncan.

Mr Duncan: The principal purpose of this clause, I understand, is that it will allow tenants in social housing to apply for money illegally collected by landlords. Is that correct?

Mr Gilchrist: That is correct.

Mr Duncan: Would tenants in these types of units still be frozen out from appearing before the tribunal or going to the tribunal?

Mr Gilchrist: They can go to the tribunal for those sections.

Mr Duncan: They can go to the tribunal for those sections?

Mr Gilchrist: For any of the sections that we have exempted here, yes.

The Chair: Questions, debate? All those in favour of the motion? Opposed? The motion carries.

Shall section 5, as amended, carry? Section 5, as amended, carries.

We will move to section 6. Questions, debate on section 6? Shall section 6 carry? All those in favour of section 6 carrying? Opposed? Section 6 is carried.

We will move to section 7, which is page 16 of your package. This is an application by Mr Duncan.

Mr Duncan: I move that subsection 7(1) of the bill be amended by adding the following clause:

"(c) what the maximum rent is for a rental unit and the date on which it takes effect."

What we're attempting to do is say that the concept of a maximum rent is appropriate. Unfortunately, because of sections 113 and 116, we lose that concept. Not only do we lose protection for tenants in markets like Metro Toronto, but we also lose protection for landlords in markets where, even in a price-regulated system, we're operating in a free market, that is, where market rents

don't make the maximum. We think that's another major flaw in your legislation. We are of the view that in a price-regulated market, where a guideline is fairly implemented, where there is a fast and efficient and fair system of dispute resolution, that the concept as originally envisioned, which would allow a landlord in effect to rent out below a previously determined max but go back to that max if market conditions changed, is in our view fair and in our view will contribute to the supply of affordable rental accommodation.

It's a bit frustrating putting the amendment forward, given what's contained elsewhere in the bill, but we are simply stating that that particular concept has some appeal to us. We believe in real tenant protection and real, balanced, fair legislation, that in terms of regulating the housing market that concept should be preserved.

The Chair: Debate? All those in favour of this motion carrying? Opposed? The motion is defeated. It appears the next amendment is section 14.1.

I'm sorry, ladies and gentlemen. Shall section 7 carry? All those in favour of section 7 carrying? All those opposed? Section 7 carries.

We'll see how this next one goes. Shall section 8 through to and including section 14 carry? All those in favour? All those opposed?

We're on to page 17, a New Democratic motion.

Mr Gilchrist: Excuse me, Chair, but you have to declare that sections 8 through 14 carried.

The Chair: You're absolutely right. I declare that sections 8 through 14 have carried.

Mr Silipo has a motion on page 17.

Mr Silipo: I move that the bill be amended by adding the following section:

"Provision re rent

"14.1 Despite section 116, no tenancy agreement between a landlord and a new tenant shall provide for rent in an amount greater than the last lawful rent for the previous tenant adjusted by any of the grounds for an increase or decrease in rent set out in sections 118 to 134."

By way of explanation, Chair, sections 118 to 134 are the various sections that set out grounds for lawful rent increase. We had drafted this amendment in an attempt to put as early as possible in the bill the issue of vacancy decontrol, ensuring that in fact there was preventing of landlords being able to simply increase the rent when a new tenant comes in. We wanted to put that into the bill as early as possible, given how strongly we felt and tenants feel about this issue, and this was the first opportunity that we had. Obviously we dealt with this issue elsewhere, but the amendment still is valid.

The Chair: Debate? All those in favour of this motion? Opposed? This motion is defeated.

Shall section 15 carry? Section 15 is carried.

We're on to page 18 of the package, a New Democratic motion.

Mr Silipo: I move that section 16 of the bill be amended by striking out "Subject to section 171" at the beginning.

Section 171 of the bill, as I understand it, allows the landlord and tenant to contract out of the provisions of the act and this would prevent that from happening. We believe that what should guide the relationship between the landlord and the tenant is what is in the law and what is a provision of, hopefully, as we would have it, the present provisions, not the new provisions, but whatever those provisions are going to be. We think that should not be superseded by the ability of parties to contract out of the act, because we know that what that entails, when that course of action is taken, is in fact, in some cases, undue pressure being put by the landlord on to the tenant to make changes.

We know that through the whole history of landlord and tenant legislation one of the basic tenets has been that you codify the law, you put the rights and responsibilities that landlords and tenants have in the legislation and then you ask both parties to abide by that. You don't say, "If you don't like it you can change this or change that or change that other piece." That's the framework and we think that has served the province well and should continue to be the way in which we do business.

1630

Mr Duncan: We will support this particular amendment. However, I do want to say with respect to section 171 that we think the direction of mediated settlements is one that is a positive step forward. We have some difficulty in the wording of the particular section that we don't think goes far enough in defining that, but in terms of being consistent with what we have heard from tenants as well as landlords all over Ontario with respect to dispute resolution, we think the mediation, if done properly, can be effective. We don't believe the government has dealt with it adequately in section 171. Consequently, because of that and the way the bill is set up, we can support this particular amendment, but we will be offering further discussion on this whole concept of mediation in a way that we think protects both tenants and landlords.

The Chair: Debate? All those in favour of this motion? Opposed? The motion is defeated.

Shall section 16 carry? Section 16 is carried.

We'll turn to page 19, dealing with an amendment to section 17.

Mr Duncan: I move that subsection 17(4) of the bill be struck out and the following substituted:

"Charges

"(4) A landlord may charge a tenant only an administrative fee as prescribed for giving consent to an assignment."

The Chair: Any rationale or statement, Mr Duncan?

Mr Duncan: We have looked at the government's wording, "A landlord may charge a tenant only for the landlord's reasonable out-of-pocket expenses incurred in giving consent to an assignment," and this issue didn't really receive any adequate discussion, I felt, during the hearings. This is a situation where we're trying to spell out how much a landlord can charge for agreeing to a subletting situation. We heard compelling arguments that it's difficult for landlords to specify what that is.

This wording goes back some time, I believe. It was in the law previously. Tenant groups do oppose the particular wording we've put forward in some instances; however, we think government can deal with that issue in regulation. We are persuaded that this wording will give equal protection to tenants and at the same time, where there's a subletting situation occurring, provide greater certainty for landlords.

Mr Silipo: This is actually one piece where I believe the words that are in the bill are better than what the amendment suggests. I think it puts a better and fairer onus, in my view, on the landlord, as set out in the bill, to charge only for "the landlord's reasonable out-of-pocket expenses" as opposed to a broad administrative fee. So I prefer the wording that's in the bill.

The Chair: Debate?

Mr Gilchrist: How could I top that?

Mr Silipo: It will happen once in a while.

The Chair: All those in favour of the motion? Opposed? The motion is defeated.

Mr Gilchrist: I move that section 17 of the bill be struck out and the following substituted:

"Assignment of tenancy

"17(1) Subject to subsections (2), (3) and (6), and with the consent of the landlord, a tenant may assign a rental unit to another person.

"Landlord's options, general request

"(2) If a tenant asks a landlord to consent to an assignment of a rental unit, the landlord may,

"(a) consent to the assignment of the rental unit; or

"(b) refuse consent to the assignment of the rental unit.

"Landlord's options, specific request

"(3) If a tenant asks a landlord to consent to the assignment of the rental unit to a potential assignee, the landlord may,

"(a) consent to the assignment of the rental unit to the potential assignee;

"(b) refuse consent to the assignment of the rental unit to the potential assignee; or

"(c) refuse consent to the assignment of the rental unit.

"Refusal or non-response

"(4) A tenant may give the landlord a notice of termination under section 46 within 30 days after the date a request is made if,

"(a) the tenant asks the landlord to consent to an assignment of the rental unit and the landlord refuses consent;

"(b) the tenant asks the landlord to consent to an assignment of the rental unit and the landlord does not respond within seven days after the request is made;

"(c) the tenant asks the landlord to consent to an assignment of the rental unit to a potential assignee and the landlord refuses consent to the assignment under clause (3)(c); or

"(d) the tenant asks the landlord to consent to an assignment of the rental unit to a potential assignee and the landlord does not respond within seven days after the request is made.

"Same

"(5) A landlord shall not arbitrarily or unreasonably refuse consent to an assignment of a rental unit to a potential assignee under clause 3(b).

"Same

"(6) Subject to subsection (5), a landlord who has given consent to an assignment of a rental unit under clause (2)(a) may subsequently refuse consent to an assignment of the rental unit to a potential assignee under clause (3)(b).

"Charges

"(7) A landlord may charge a tenant only for the landlord's reasonable out-of-pocket expenses incurred in giving consent to an assignment to a potential assignee.

"Consequences of assignment

"(8) If a tenant has assigned a rental unit to another person, the tenancy agreement continues to apply on the same terms and conditions and,

"(a) the assignee is liable to the landlord for any breach of the tenant's obligations and may enforce against the landlord any of the landlord's obligations under the tenancy agreement or this act, if the breach or obligation relates to the period after the assignment, whether or not the breach or obligation also related to a period before the assignment;

"(b) the former tenant is liable to the landlord for any breach of the tenant's obligations and may enforce against the landlord any of the landlord's obligations under the tenancy agreement or this act, if the breach or obligation relates to the period before the assignment;

"(c) if the former tenant has started a proceeding under this act before the assignment and the benefits or obligations of the new tenant may be affected, the new tenant may join in or continue the proceeding.

"Application of section

"(9) This section applies with respect to all tenants, regardless of whether their tenancies are periodic, fixed, contractual or statutory, but does not apply with respect to a tenant of superintendent's premises."

If I can speak briefly to it, this amendment clarifies the wording of section 17 which expands and codifies the rules for an assignment. An assignment is where the tenant does not intend to return to the rental unit and wishes to transfer all interest in the rental unit to another person on the same terms and conditions of the original tenancy agreement. This amendment provides further clarification of a tenant's rights if they are refused consent or are not provided with a response to a request to assign a rental unit. Specifically, it clarifies that an assignment must be in accordance with provisions dealing with a landlord's options in these situations, ie, refusal of assignment, and that the section applies to all tenants, including those in periodic, fixed, contractual or statutory tenancies.

Mr Duncan: The proposed subsection (5) that you've added, "A landlord shall not arbitrarily or unreasonably refuse consent to an assignment of a rental unit to a potential assignee under clause 3(b)," we think is a good step.

I do have a question for the parliamentary assistant with respect to subsection (6): "Subject to subsection (5), a landlord who has given consent to an assignment of a

rental unit under clause (2)(a) may subsequently refuse consent to an assignment of the rental unit to a potential assignee under clause (3)(b)." Could you explain why you've put that in there?

Mr Gilchrist: Potentially, in a very general sense, you could indicate to your tenant that you have no philosophical problem with a sublet. Then when the prospective sublessee is introduced to you, you may very well find that for any number of reasons that person would be an inappropriate tenant or simply would not have met the criteria that you established in the first tenancy.

I'm sure you could envisage a wide range of circumstances that that could include, not the least of which — again, just to pick an example, we've had considerable comment from those who own student housing in places like Kingston. You might very well have said that you operate a house solely dedicated to student housing. Your student, after the first term's report card came back, has decided that perhaps they aren't going to make the grade and has requested to be relieved from the obligations under the lease to the extent that they have found a replacement tenant. However, when the prospective new tenant, sublessee, is introduced to you, you ascertain it is not a student. For example, in all the housing owned by Queen's University, that would be a very reasonable prohibition they could then bring forward.

1640

Mr Duncan: We have proposed other amendments with respect to that. We were persuaded by that particular delegation as well. We did have some concerns about this particular amendment and the scope of latitude it gives the landlord in terms of choosing who can be sublet to. We felt that it's pretty wide open in this particular definition. Unfortunately, had the House motion allowed us to bring forward other amendments, we might have brought something forward a little different than this, but we can't do that at this point, and accordingly, we think that the scope is just too wide on this particular section.

Recognizing the government is attempting to deal with the issue that was brought forward by the Kingston landlord group, this subsection, we think, will just simply allow a landlord in many instances to refuse subletting, and we think it goes too far.

Mr Gilchrist: Mr Duncan — if I may, Chair?

The Chair: If it's in a direct response.

Mr Gilchrist: Absolutely. I would just point out to Mr Duncan, this is the status quo right now, the wording that we are putting in here. The original version perhaps had abbreviated too much so we've gone back to something that is under the current act.

Mr Duncan: Thank you.

Mr Silipo: That last comment surprises me. That's why I was doublechecking to my left here. That's not our understanding.

Mr Gilchrist: Forgive me, one second, Mr Silipo. I may have misunderstood staff. Forgive me. I misspoke myself. The status quo in terms of accepting potential assignees: All of the other sections of the act will continue to apply and the same standards that a landlord would be

held to in the original assessment of a tenant would apply in this case. So it merely clarifies the other possible scenarios that could take place. It adds further definition. I'm sorry, as I say, I misunderstood the staff.

Mr Silipo: I'm glad we've got that clarified, because if the government is interested in putting words that maintain the present provisions, we would certainly be able to support those. But we can't support this particular amendment because essentially it restricts the tenant's right to assign unduly we think, and therefore, allows the landlord to vacate a unit faster. With the new provisions of the act, there would be even greater incentive for the landlord to do that, and we think that's not appropriate.

The Chair: Debate? All those in favour of the motion? All those opposed? The motion is carried.

Shall section 17, as amended, carry? All those in favour of section 17, as amended? All those opposed? Section 17, as amended, is carried.

We will move to section 18 on page 23, which is Mr Duncan's motion.

Mr Duncan: I move that subsection 18(3) of the bill be struck out and the following substituted:

"Charges

"(3) A landlord may charge a tenant only an administrative fee as prescribed for giving consent to a subletting."

This is similar to the previous amendment we put forward. It reflects wording that was in the first five years of the 10 lost years, but obviously it's not the agreement of the committee that this should continue on.

The Chair: Debate? Shall the motion carry? All those in favour? All those opposed? The motion fails.

Mr Gilchrist: I move that subsection 18(6) of the bill be struck out and the following substituted:

"Application of section

"(6) This section applies with respect to all tenants, regardless of whether their tenancies are periodic, fixed, contractual or statutory, but does not apply with respect to a tenant of superintendent's premises."

This is a technical amendment clarifying what is meant by the nature of a tenancy by referring to "periodic, fixed, contractual or statutory" tenancies.

The Chair: Rationale?

Mr Gilchrist: I just gave that. I'd be happy to give it to you a second time.

The Chair: I'm having a bad time here, aren't I? Debate? All those in favour? Opposed? The motion carries.

Shall section 18, as amended, carry? All those in favour? Opposed? Section 18, as amended, is carried.

Debate on section 19? All those in favour of section 19? Opposed? Section 19 is carried.

We're on to section 20, page 25.

Mr Duncan: I move that subsection 20(3) of the bill be amended by striking out "without written notice" in the second line and substituting "in accordance with written notice given to the tenant at least 24 hours before the time of entry," by adding "and" at the end of clause (a), by striking out "and" at the end of clause (b) and by striking out clause (c).

We felt a very compelling argument was put forward by tenant groups that a tenant ought to have the benefit of written notice that a landlord intends to enter a unit and felt that the proposed amendment that we put forward is reasonable from a tenant's perspective and fair from a tenant's perspective. I simply think back to, when I was a tenant some years ago, how messy my apartment could be. I would probably not want somebody walking in without the benefit of some kind of formal notice, written notice, prior to that occurring. I think it's reasonable, if one thinks of one's own home, if someone could walk in without written authorization beforehand, there would probably be circumstances where that wouldn't be reasonable, so we think this gives reasonable provision protection of tenants.

The Chair: Debate?

Mr Silipo: Yes, Chair, as you know, we have a similar amendment to this. I certainly continue to feel strongly that the present provision, which requires written notice, is adequate. It's not particularly inordinate, I think, upon landlords to have to provide written notice if they wish to enter the premises. We are dealing here with people's homes, as Mr Duncan has indicated, and that is, I think, something that should continue to be the case.

The Chair: Debate? All those in favour of the motion? Opposed? The motion is defeated.

Mr Silipo, I believe your motion is in order.

Mr Silipo: I move that subsection 20(3) of the bill be amended by striking out "without written notice" in the second line and substituting "in accordance with written notice given to the tenant at least 24 hours before the time of entry."

The Chair: Do you have a rationale? All those in favour of the motion? Opposed? The motion is defeated.

Shall section 20 carry? All those in favour? Opposed? Section 20 is carried.

Ladies and gentlemen, we're going to be slightly out of order. We'll turn to page 28 first and that is a government application.

Mr Gilchrist: I move that paragraph 3 of subsection 21(1) of the bill be struck out and the following substituted:

"3. To allow a potential purchaser to view the rental unit."

This amendment clarifies the wording of section 21, which already sets out the circumstances in which a landlord may enter a rental unit with 24 hours' prior written notice. Specifically, it strikes out paragraph 3 of the Tenant Protection Act and removes the reference to the complex being listed for sale. The amendment reflects the fact that there may be situations in which someone may wish to view a rental complex that is not actually listed for sale. You may not have actually signed a listing with a broker but have decided to sell.

The Chair: Debate? All those in favour of the motion? Opposed? The motion carries.

We will return to page 27, which is a New Democratic application.

1650

Mr Silipo: I move that paragraphs 2 and 3 of subsections 21(1) of the bill be struck out.

The Chair: Debate? Discussion? All those in favour of the motion? Opposed? The motion is defeated.

Shall section 21, as amended, carry? Section 21, as amended, is carried.

We will turn to section 22. Is there any debate or discussion on section 22? No. Shall section 22 carry? Section 22 is carried.

Page 29, section 23, which is a Liberal application.

Mr Duncan: I move that subsection 23(2) of the bill be amended by striking out "the consent of the landlord" at the end and substituting "giving the landlord replacement keys."

We've proposed this amendment because it basically gives tenants the same rights as landlords.

The Chair: Debate? All those in favour of the motion? Opposed? The motion is defeated.

We will turn to page 30, which is Mr Silipo's motion.

Mr Silipo: I believe that's identical, Chair.

The Chair: It is identical.

We will move on to section 23. All those in favour? All those opposed? Section 23 is carried.

Shall sections 24, 25, 26 and 27 carry? All those in favour of those sections carrying? Opposed? Sections 24, 25, 26 and 27 are carried.

We are now moving on to page 31, which is a government motion.

Mr Gilchrist: I move that the bill be amended by striking out "Responsibility" in the heading before section 28 and substituting "Responsibilities" and by adding the following section:

"Tenant not to harass, etc

"27.1 A tenant shall not harass, obstruct, coerce, threaten or interfere with a landlord."

The purpose of this amendment is to provide landlords with protection from harassment. It recognizes that landlords can be victims of tenant harassment just as tenants can be victims of landlord harassment. It ensures that in the bill they are each afforded equal treatment in the eyes of the law.

The Chair: Debate? All those in favour of the motion? Opposed? The motion is carried.

We're moving on to page 32, which is a Liberal application.

Mr Duncan: I move that the bill be amended by adding the following section:

"Receipt for rent

"27.1 A landlord shall provide, at the time of payment, the tenant or prospective tenant with a receipt for any rent payment or security deposit received."

We could have supported the previous amendment, had the government dealt with this particular issue. We think this is a matter of good business practice from a landlord's perspective and are surprised the government didn't bring forward amendments to this section with regard to that. We are curious as to why not. We think it's good form. We think it will make eventual proceedings before a

tribunal function more efficiently and we're really quite surprised the government did not do this.

We also support the concept of conspicuous posting of who the landlord is. As a result of being an MPP and as many of you have, I have a rental accommodation here in Toronto that the taxpayers have generously supplied me with. I noted that it is very difficult to determine who my landlord is from what is currently posted in the building. As a matter of fact, the corporation name refers to witchcraft.

The Chair: What a story.

Mr Duncan: Having had a dispute with my landlord, I might add that it was very difficult to determine who the landlord was. We would have enjoyed seeing those amendments, which we think are good business form. We believe the vast majority of landlords are good landlords and that would have been good business form and would provide for a more efficient running of the tribunal, should disputes arise.

The Chair: Mr Silipo, I'm going to rule that yours is similar, so I don't know whether you wish to comment at this time.

Mr Silipo: Just to say briefly that we think this certainly is good business practice, as Mr Duncan has said.

The Chair: Debate?

Mr Gilchrist: Mr Duncan, you've left yourself wide open on this one, I'm afraid.

Mr Duncan: It wouldn't be the first time.

Mr Gilchrist: We're ones to read all the amendments, you would discover, not to get ahead of ourselves, but I think for the edification of Mr Duncan, section 112.1 is a new section we have proposed.

"A landlord shall provide free of charge to a tenant, on the tenant's request, a receipt for the payment of any rent, rent deposit, arrears of rent or any other amount paid to the landlord."

I would also point out to you, sir, that section 8 of the act already makes it mandatory; the landlord must inform every tenant of the formal name of the corporation as well as of the mailing address at the time of the tenancy agreement. We agree with you and that's why we made sure both those sections are in the act. But with the greatest of respect, I think we'll probably vote down yours and vote for ours because it's just a bit more definitive —

Interjection.

Mr Gilchrist: No, Mr Silipo, to be fair, it also talks about receipts for other things that Mr Duncan does not propose. It talks about getting a receipt for arrears in rent.

The Chair: Why don't we do that then, Mr Gilchrist?

Mr Gilchrist: Thank you, Chair. I'd be more than happy to.

Mr Silipo: I'm just waiting to see all those amendments the government said that they were going to adopt from the opposition.

Mr Gilchrist: Coming up. The bold print.

The Chair: All those in favour of this motion? Opposed? The motion is defeated.

We are on to page 33, which is out of order. It's identical or almost identical, Mr Silipo. Page 34, which is Mr Duncan's application.

Mr Duncan: Again, I addressed this a moment ago. I move that the bill be amended by adding the following section:

"Landlord to post name and address

"27.2 A landlord shall post conspicuously and maintain posted the legal name of the landlord and the landlord's address for service."

I didn't detect a similar government amendment, but if there is, perhaps the parliamentary assistant could tell us where that is.

Mr Gilchrist: As currently drafted in the bill, section 8 goes further: Never mind just posting it, they must actually give that name and address to the tenants.

Mr Duncan: We thought that a clearer definition under this section would make sense and provide greater clarification than that which is provided in section 8. Therefore, we propose this amendment. If it is consistent with what the government is doing in another section, we imagine the government would be amenable to the amendment.

The Chair: All those in favour of the motion? Opposed? The motion fails.

Page 35 is out of order. Page 36 is a New Democratic motion.

Mr Silipo: I move that the bill be amended by adding the following section:

"Rent for new tenant

"27.2 No landlord shall require a tenant to pay rent in an amount greater than the last lawful rent for the previous tenant adjusted by any of the grounds for an increase or decrease in rent set out in sections 118 to 134."

We've made our views on the issue of vacancy decontrol clear and we thought this was another appropriate place to put the concept into law.

The Chair: Debate? Shall the motion carry?

Mr Duncan: No. Or yes. I'm sorry, I apologize to the third party.

The Chair: Welcome to the club. All those opposed?

Interjections.

The Chair: Let's try it again, shall we? All those in favour of Mr Silipo's motion? All those opposed? The motion fails.

We're on to page 37, which is a government application.

Mr Gilchrist: I move that the bill be amended by adding the following section:

"Tenant's responsibility for damage

"28.1" —

The Chair: Excuse me, I'm remiss. We have to deal with section 28. Debate on section 28? Shall section 28 carry? Section 28 is carried. Mr Gilchrist, you may continue.

1700

Mr Gilchrist: I move that the bill be amended by adding the following section:

"Tenant's responsibility for damage

"28.1 The tenant is responsible for the repair of damage to the rental unit or residential complex caused by the wilful or negligent conduct of the tenant, other occupants of the rental unit or persons who are permitted in the residential complex by the tenant."

It sets out the tenant's statutory responsibility not to cause damage to a rental unit. A similar provision is contained in subsection 94(3) of the existing Landlord and Tenant Act.

Section 28 of Bill 96 as originally drafted is silent in respect to the tenant's responsibility for the repair of damage caused by wilful or negligent conduct of the tenant or any persons they let into their premises or the building, and we think it clarifies that responsibility.

Mr Duncan: We heard compelling testimony, particularly from small landlords, around this issue. Were this issue addressed in a different, broader context and were it addressed, in our view, in a more in-depth way, we could look at it. We can't support this because it's dealt with in a context that we think overall takes away tenant rights.

I'm sure all of us in our constituencies have run into small landlords who have had tenants who have caused them extensive damage. These are not wealthy, big people at all. These are people who have taken their life savings and have invested them in a small rental property and have found themselves in very difficult circumstances.

We want to say clearly that tenants have responsibilities as well and we support the principle of that. In the context of this bill, however, we can't support this particular amendment because of the general flow of the bill, number one; number two, because we see some real problems in looking at this particular amendment in terms of what the tribunal will do in determining what "wilful or negligent conduct" is. We think the wording is broad in scope and would need greater clarification. Perhaps it's the government's intention to do that in regulation. We don't think that would be sufficient.

The Chair: All those in favour of the motion? Opposed? The motion carries.

Shall section 29 carry? All those in favour of section 29 carrying? Opposed? Section 29 is carried.

We will move to page 38, which is section 30. A government motion.

Mr Gilchrist: I move that subsection 30(1) of the bill be amended by adding the following paragraphs:

"8. Where a notice under section 49 has been given in bad faith and the tenant vacates the rental unit as a result of the notice, an order determining that the notice has been given in bad faith and neither the landlord, the landlord's spouse nor a child or parent of one of them has occupied the rental unit within a reasonable time after that termination.

"9. Where a notice under section 50 has been given in bad faith and the tenant vacates the rental unit as a result of the notice, an order determining that the notice has been given in bad faith and neither the purchaser, the purchaser's spouse nor a child or parent of one of them has occupied the rental unit within a reasonable time after that termination.

"10. Where a notice under section 51 has been given in bad faith and the tenant vacates the rental unit as a result of the notice, an order determining that the notice has been given in bad faith and the landlord has not demolished, converted or repaired or renovated the rental unit within a reasonable time after that termination."

This amendment is intended to provide greater protection to tenants against unjustified evictions under Bill 96's termination provisions, "landlord's own use," where a purchasing landlord personally requires the unit or where a landlord wishes to repair or renovate. The amendment creates a new tenant application to address situations where the landlord failed to occupy the premises for residential purposes or failed to demolish, convert, renovate, repair after eviction, through notices for the landlord's own use or demolition, conversion, repair or renovation.

The remedies would be the same as for causing the tenant to vacate the unit, such as damages for moving expenses, abatement of rent, an administrative fine and any other administrative remedy the tribunal would find appropriate. In other words, we believe that if tenants are unfairly asked to leave a unit, if a landlord is not being honest when he suggests that he wants the unit back for his own use or because he is going to renovate or repair a building, the tenant should have the ability to come back and seek remedy from the tribunal.

Mr Duncan: While we believe these amendments are good and do provide greater tenant protection and we're glad the government is bringing them forward, in light of the context of the bill it's like giving a fan to somebody going to hell to keep them cool. But we applaud the government for bringing these amendments forward. Because of our general opposition to the thrust of the bill, we will vote against them, but let's say that these particular amendments do, in our view, provide for greater tenant protection and we are glad you are putting them into this bill, even though the overall thrust of the bill certainly does not provide greater protection for tenants.

Mr Silipo: I have no problem in supporting these amendments, because they provide greater protection to tenants. We'll obviously be opposing the overall thrust of the bill.

The Chair: All those in favour of the motion? All those opposed? The motion carries.

Page 39.

Mr Duncan: I move that subsection 30(2) of the bill be amended by striking out "one year" in the second line and substituting "six years."

Subsection 30(2) deals with the enforcement of rights under tenant applications. We are attempting here to provide tenants the same amount of time that landlords are provided with. This was testimony that was brought forward to the committee by a number of groups here in Toronto, and I believe we heard it while we were on the road also. If the intent is to strike balance, we think the government would be in favour of this particular amendment.

The Chair: Debate? All those in favour of this motion? Opposed? The motion fails.

Yours is identical, Mr Silipo. We'll turn to page 40, which –

Mr Gilchrist: First we have to vote on the sections.

The Chair: Please be patient with me. I'm doing my best.

Shall section 30, as amended, carry? Carried.

Shall section 31 carry? Carried.

Shall section 32 carry? All those in favour of section 32? Opposed? Section 32 is carried.

We will move to section 33, which is page 41, a New Democratic motion.

Mr Silipo: I move that subsection 33(2) of the bill be amended by adding at the end the words "and shall order that the rent charged to the new tenant shall not exceed the rent that could have been charged to the former tenant."

This is another place where we thought the potential range of penalties to be applied to the landlord in cases of harassment should also include the inability to raise the rent.

The Chair: Debate? All those in favour of the motion? All those opposed? The motion is defeated.

Page 42, which is a Liberal application.

Mr Duncan: I move that subsection 33(2) of the bill be struck out and the following substituted:

"Same

"(2) If the tenant or former tenant was harassed, obstructed, coerced, threatened or interfered with in such a manner that he or she was induced to vacate the rental unit at any time before the order is issued, in addition to the remedies set out in subsection (1), the tribunal,

"(a) may order that the landlord pay a specified sum to the tenant as compensation for,

"(i) all or any portion of any increased rent which the tenant has incurred or will incur for a one-year period after the tenant has left the rental unit; and

"(ii) reasonable out-of-pocket moving, storage and other like expenses which the tenant has incurred or will incur; and

"(b) shall order that the rent to be charged to the new tenant shall not exceed the rent that could have been charged to the former tenant."

We are attempting here to clarify in greater detail orders under the tribunal and what the tribunal may order with respect to tenant application.

The Chair: Debate? All those in favour of this motion? Opposed? The motion fails.

We will turn to page 43, a government motion.

1710

Mr Gilchrist: I move that section 33 of the bill be struck out and the following substituted:

"33(1) If the tribunal determines that a landlord, a superintendent, or an agent of a landlord has done one or more of the activities set out in paragraphs 3 to 10 of subsection 30(1), the tribunal may,

"(a) order that the landlord, superintendent or agent may not engage in any further activities listed in those

paragraphs against any of the tenants in the residential complex;

"(b) order an abatement of rent;

"(c) order that the landlord pay to the tribunal an administrative fine not exceeding the greater of \$10,000 or the monetary jurisdiction of the Small Claims Court in the area where the residential complex is located;

"(d) order that the tenancy be terminated;

"(e) make any other order that it considers appropriate.

"(2) If in an application under any of paragraphs 3 to 10 of subsection 30(1) it is determined that the tenant was induced by the conduct of the landlord, the superintendent or an agent of the landlord to vacate the rental unit, the tribunal may, in addition to the remedies set out in subsection (1), order that the landlord pay a specified sum to the tenant as compensation for,

"(a) all or any portion of any increased rent which the tenant has incurred or will incur for a one-year period after the tenant has left the rental unit; and

"(b) reasonable out-of-pocket moving, storage and other like expenses which the tenant has incurred or will incur."

If I can just speak to that, throughout the hearings we heard a number of suggestions made and this amendment reflects changes to the existing section 30. It corrects an earlier reference to the section. But primarily, the amendment includes additional activities that can be carried out by a landlord that would result in orders being levied by the tribunal against the landlord.

In addition to those remedies, the tribunal can order a landlord to pay compensation if in an application it was found the tenant was forced to vacate a unit as a result of the landlord, superintendent or agent's behaviour.

Quite frankly, as Mr Silipo I believe very wisely pointed out in reference to the last government motion, we genuinely believe this gives the tribunal further powers to deal with any inappropriate behaviour by a landlord or any of its agents.

The Chair: Debate? All those in favour of this motion? Opposed? The motion is carried.

Shall section 33, as amended, carry? Section 33, as amended, is carried.

Shall section 34 carry? Section 34 is carried.

Shall section 35 carry? Section 35 is carried.

Section 36 we have dealt with.

We're moving along to section 37, page 47, which is a government application.

Mr Gilchrist: I move that subsection 37(1) of the bill be amended by striking out "part" at the end and substituting "act."

This is a technical amendment which strikes out an incorrect reference. The TPA wording stated that the tenancy can only be terminated in accordance with part III of the TPA, when it should be referring instead to the entire act.

The Chair: All those in favour? Opposed? The motion is carried.

Page 48.

Mr Duncan: I move that clause 37(3)(a) of the bill be struck out.

This was our attempt to address the issue that was raised with the committee in Kingston. The government has attempted to deal with that particular issue in an earlier section of the bill. We felt this would be a better place to deal with it. However, I believe the government has adequately dealt with the question earlier on in the bill.

The Chair: All those in favour of this motion? Opposed? The motion is defeated.

Shall section 37, as amended, carry? Section 37, as amended, is carried.

Moving on to section 38, page 49, a government motion.

Mr Gilchrist: I move that subsection 38(2) of the bill be amended by adding at the end "with the same terms and conditions that are in the expired tenancy agreement and subject to any increases in rent charged in accordance with this act."

This is a technical amendment that clarifies that an automatic renewal of a tenancy will be on the same terms and conditions that are in the expired tenancy agreement and that any rent increases charged must be in accordance with the act. That has obviously been the intent all the way along. We think this clarifies it.

I would note for the record that, with the exception of one word, the Liberals had a motion that was identical.

Mr Duncan: This is a good amendment albeit in a bad bill. When in opposition, government members opposite wouldn't know this, but one of the difficulties as you approach these bills is whether you try to fix something that's fundamentally broken, and we put these forward in the hope that the government would accept this. I am pleased to see that the government has. I applaud the government. As I say, once again, supporting the government is an awkward position for us to be in at any time; however, this particular amendment makes infinite sense and amends what is fundamentally bad legislation in a positive way.

Mr Froese: We were listening. We heard you.

Mr Doyle: Well, we heard part of it.

The Chair: All those in favour of the motion? Opposed? The motion is carried.

You're withdrawing page 50?

Mr Duncan: Yes.

The Chair: Shall section 38, as amended, carry? Section 38, as amended, is carried.

Shall section 39 carry? Section 39 is carried.

We're on to section 40, page 51, a government application.

Mr Gilchrist: I move that section 40 of the bill be struck out and the following substituted:

"Disposal of abandoned property, unit vacated

"40(1) A landlord may sell, retain for the landlord's own use or otherwise dispose of property in a rental unit or the residential complex if the rental unit has been vacated in accordance with,

"(a) a notice of termination of the landlord or the tenant;

"(b) an agreement between the landlord and the tenant to terminate the tenancy;

"(c) subsection 64(2); or

"(d) an order of the tribunal terminating the tenancy or evicting the tenant.

"Where eviction order enforced

"(2) Despite subsection (1), where an order is made to evict a tenant, the landlord shall not sell, retain or otherwise dispose of the tenant's property before 48 hours have elapsed after the enforcement of the eviction order.

"Same

"(3) A landlord shall make an evicted tenant's property available to be retrieved at a location proximate to the rental unit for 48 hours after the enforcement of an eviction order.

"Liability of landlord

"(4) A landlord is not liable to any person for selling, retaining or otherwise disposing of a tenant's property in accordance with this section.

"Agreement

"(5) A landlord and a tenant may agree to terms other than those set out in this section with regard to the disposal of the tenant's property."

The purpose of this amendment is to clarify provisions relating to the disposal of a tenant's property. The amendment extends application of these provisions to situations where the tenant vacates a superintendent's premises as well.

This amendment also adds a new provision to section 40, requiring landlords to hold on to a tenant's property for at least a period of 48 hours after an eviction order of the tribunal has been enforced. So again, this is not a case of someone just leaving at the end of their tenancy; this is where the tribunal has heard all the evidence and has issued such an order.

The landlord must also provide reasonable access to the stored property during this 48-hour period and can charge only out-of-pocket expenses for the storage of the property, if he or she has incurred any. This is intended to deal with situations where the tenants may not have been given prior warning of the enforcement of an eviction order and would not have had the opportunity to make all the necessary arrangements to remove their property from the premises. As the bill is currently drafted, landlords are under no obligations in these circumstances, and we believe that this amendment extends one extra opportunity to tenants to make sure they can order their affairs even after the tribunal has caused an eviction order to be issued.

The Chair: All those in favour of this motion? Opposed? The motion carries.

Mr Duncan, on page 53, you have an application.

1720

Mr Duncan: Rather than read this whole thing, I will not put the amendment — this deals with the same section — and just simply say that this section, section 40, is very indicative of the act itself and what we believe is the imbalance that is being imposed. Our view is that the government has moved an inch where I would have preferred to see it go further. But our view is that this is very

indicative of situations where greater tenant protection could be afforded and at the same time not unreasonably prejudice landlords.

Landlords put a compelling case about their needs, as have tenant groups, and I suspect these clauses will be dealt with by other governments in ways that we perhaps can't even contemplate at this moment. The significance of section 40 is, however, that it indicates a mindset of the whole legislation. We don't believe there is any balance here. We think this tilts the scales far too much one way, that is, in the direction of landlords.

The Chair: Pages 53 and 54 are being withdrawn. Page 55.

Mr Silipo: I move that section 40 of the bill be struck out and the following substituted:

"Disposal of abandoned property

"40(1) Unless a landlord and tenant have made a specific agreement providing for the storage of personal property, where a tenant leaves personal property in a rental unit or residential complex that he or she has vacated or abandoned, the landlord may remove the personal property and, on removal, shall store and dispose of the personal property in accordance with this section.

"Same

"(2) Where a landlord has good reason to believe that an item of personal property removed under subsection (1) would be unsafe or unhygienic, the landlord may dispose of the item.

"Same

"(3) Property that has not been disposed of under subsection (2) shall be stored in a safe place and manner for a period of not less than 60 days.

"Same

"(4) Where the tenant or owner of an item of personal property stored by the landlord pays the landlord the cost of removing and storing the item, the landlord shall give the item to the tenant or owner.

"Same

"(5) Where a landlord substantially complies with this section, he or she is not liable to the tenant or any other person for loss suffered as a result of the storage, sale or other disposition by the landlord of the abandoned personal property.

"Same

"(6) Where, on the application of a person claiming to be the owner of an item of personal property, the tribunal determines that the landlord has wrongfully sold, disposed of or otherwise dealt with the item of personal property, the tribunal may make an order,

"(a) requiring the landlord to compensate the owner for the wrongful sale, disposition or dealing; or

"(b) requiring the landlord to give the property to the owner."

The basic concept here is that landlords should be required to keep property that belongs to a tenant for a period of not less than 60 days. We think that's more reasonable than the 48 hours suggested in the direction the government is taking. We think the other provisions

provide the kind of protection that needs to be there for both landlords and tenants.

The Chair: Debate? All those in favour of this motion? Opposed? This motion has failed.

Shall section 40, as amended, carry? All those in favour of section 40, as amended? All those opposed? Section 40, as amended, carries.

We are on to section 41, page 57.

Mr Duncan: I move that subsection 41(2) of the bill be amended by striking out "reasons for" in the second line and substituting "reasons and details respecting."

We're proposing this particular amendment as almost evidentiary in nature in the sense that we think it's good business practice. We think this type of amendment will actually benefit both landlords and tenants in terms of future appearances at a tribunal. By requiring that details about why the tenant is being evicted be presented, we think this will provide for more efficient functioning of the tribunal down the road. The government will probably suggest they can deal with that in regulation, but we did want to make the point.

Mr Gilchrist: Mr Duncan, you keep setting yourself up. This is the second time you've walked into the minefield. Actually, we are more than happy to accept this amendment you've put forward. Let me just say for the record that it's identical to an amendment put forward by the NDP. We agree with you. We think it will provide greater clarity and will make the tribunals work easier.

Mr Silipo: Note the time.

Mr Gilchrist: Indeed. Who says we don't take sage counsel when it's offered?

We particularly look forward to the landlord specifying issues such as what month the rent was missed and that sort of thing. There's no doubt that both the landlords' and tenants' business dealings will be improved as a result of this, so we will be accepting this amendment.

The Chair: Further debate?

Mr Duncan: Do I have time to get water?

The Chair: Let's just have a little vote first, and then we'll see how the water situation is.

All those in favour of this motion? This motion carries.

The next one is duplication, Mr Silipo. We will move to section 41.

Shall section 41, as amended, carry? Section 41, as amended, carries.

We're moving on to section 42, page 59.

Mr Gilchrist: I move that section 42 of the bill be amended by adding the following subsection:

"Exception

"(2) Subsection (1) does not apply with respect to a notice based on a tenant's failure to pay rent."

This amendment simply sets out that a landlord's termination notice does not become void in 30 days if it is based on non-payment of rent. It maintains the existing provision of the Landlord and Tenant Act and recognizes that landlords and tenants often enter into repayment schedules that could extend beyond 30 days. We've basically brought back into this act the status quo from the Landlord and Tenant Act.

The Chair: Debate? All those in favour of this motion? All those opposed? This motion carries.

Shall section 42, as amended, carry? Section 42, as amended, carries.

Shall section 43 carry? Section 43 carries.

Shall section 44 carry? Section 44 carries.

We're moving on to section 45, page 60, a government motion.

Mr Gilchrist: I move that subsections 45(1) to (4) of the bill be amended by striking out "or 57" in the first line of each of them and substituting in each case "57 or 90.1" and by inserting after "before" in the third line of subsection (3) "the date the termination is specified to be effective and that date shall be on."

The amendment is a technical one. It clarifies that prescribed notice periods for termination by a landlord under section 57 also apply to terminations based on section 90.1, a new section that we are proposing to add to allow for terminations when a tenant's stay in rehabilitative and therapy programs has expired. There is also a technical amendment in subsection 45(3) clarifying the effective date of terminations for yearly tenancies.

The Chair: Debate? All those in favour of this motion? Opposed? This motion is carried.

Shall section 45, as amended, carry? Section 45, as amended, is carried.

We're moving to section 46, page 61, a government motion.

Mr Gilchrist: I move that subsection 46(1) of the bill be struck out and the following substituted:

"Notice by tenant

"(1) A tenant may give notice of termination of a tenancy if the circumstances set out in subsection 17(4) apply."

It's a technical amendment that reflects changes in the wording of rules for an assignment which we dealt with earlier.

The Chair: Debate? All those in favour of this motion? Opposed? This motion is carried.

We move on to page 42.

Mr Gilchrist: It's page 62.

The Chair: Uh-oh. Section 62, Mr Duncan.

Mr Duncan: Page 62. What a day.

The Chair: I know. I really appreciate members of the committee bearing with me.

Mr Duncan: And Gilchrist and I agreed on two things. I can understand your disorientation.

I move that subsection 46(2) of the bill be amended by inserting after "be" in the second line "at the end of the month following."

This would change the time required for notice by tenants terminating or subletting. This amendment, we believe, will provide more balance in all the relationships.

Mr Gilchrist: Unfortunately, the amendment as it is drafted, Mr Duncan, has the potential to cause even more confusion if the tenancy isn't based on a monthly rent. If it's weekly or biweekly, the end of the month could fall in the middle of a tenancy period. In addition, depending on long how the landlord took to deny the sublet, it could

actually take up to two months, depending on how the calendar fell. Unfortunately, because not all tenancies are monthly, we can't support this motion.

Mr Froese: With that explanation, will you withdraw?

Mr Duncan: No.

The Chair: No further debate? All those in favour of this motion? Opposed? This motion fails.

Shall section 46, as amended, carry? Section 46, as amended, is carried.

We're moving to page 63, section 47, a Liberal application.

1730

Mr Duncan: I move that subsection 47(1) of the bill be amended by inserting after "terminated" in the third line "at the end of the month following."

This gives the relatives of deceased tenants more time to move an apartment's contents. I think anybody who has been through this sort of tragedy where you're left having to do this sort of thing would agree with this. Also, it probably wouldn't pose problems for most landlords, who, in my experience, have been very accommodating in these matters.

The Chair: Debate? All those in favour of this motion? Opposed? The motion fails.

We're on to page 64, which is a government motion.

Mr Gilchrist: I move that clause 47(2)(b) of the bill be struck out and the following substituted:

"(b) afford the executor or administrator of the tenant's estate, or if there is no executor or administrator, a member of the tenant's family reasonable access to the rental unit and the residential complex for the purpose of removing the tenant's property."

It clarifies who can remove property in the event of the death of a tenant and certainly adds a number of people who could possibly assist in that regard if a tenant dies in the middle of a tenancy.

The Chair: All those in favour of this motion? The motion carries.

Shall section 47, as amended, carry? Section 47, as amended, is carried.

We're on to page 65, a Liberal motion to section 48.

Mr Duncan: I move that subsection 48(1) of the bill be amended by striking out "retain for the landlord's own use" in the first and second lines and by striking out clause (b) and substituting the following:

"(b) otherwise, 60 days after the tenancy is terminated under section 47."

This would again give relatives more time to claim a deceased tenant's property. It would also prohibit landlords from potentially unfairly claiming a deceased tenant's property for their own use.

The Chair: Debate? All those in favour? Opposed? It fails.

I think the next one is identical, Mr Silipo. Counsel says it's not. I think it is.

Mr Gilchrist: I'm afraid it is.

Mr Silipo: Sorry. The wording is slightly different.

The Chair: If it saves time, we'll proceed.

Mr Silipo: I move that clause 48(1)(b) of the bill be struck out and the following substituted:

"(b) otherwise, 60 days after the tenancy is terminated under section 47."

The Chair: All those in favour? Opposed? This motion fails.

Page 67, which is a government motion.

Mr Gilchrist: I move that subsections 48(3), (4) and (5) of the bill be struck out and the following substituted:

"Same

"(3) If, within six months after the tenant's death, the executor or administrator of the estate of the tenant, or if there is no executor or administrator, a member of the tenant's family claims any property of the tenant that the landlord has sold, the landlord shall pay to the estate the amount by which the proceeds of sale exceed the sum of,

"(a) the landlord's reasonable out-of-pocket expenses for moving, storing, securing or selling the property; and

"(b) any arrears of rent.

"Same

"(4) If, within the six-month period after the tenant's death, the executor or administrator of the estate of the tenant, or if there is no executor or administrator, a member of the tenant's family claims any property of the tenant that the landlord has retained for the landlord's own use, the landlord shall return the property to the tenant's estate.

"Agreement

"(5) A landlord and the executor or administrator of a deceased tenant's estate may agree to terms other than those set out in this section with regard to the termination of the tenancy and disposal of the tenant's property."

This is an ancillary amendment made to the amendment made in clause 47(2)(b), which stipulates who may remove property in the event of the death of a tenant.

The Chair: Debate? All those in favour of this motion? The motion carries.

Shall section 48, as amended, carry? Section 48, as amended, is carried.

We're moving on to section 49, page 68.

Mr Gilchrist: I move that subsection 49(2) of the bill be struck out and the following substituted:

"Same

"(2) The date for termination specified in the notice shall be at least 60 days after the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term."

This sets out when a notice of termination for a landlord's own use may take effect. This is a technical amendment that clarifies that a notice must take effect the day the fixed-term tenancy ends or, if there was not a fixed term, then the day the period of tenancy ends.

The Chair: Debate? All those in favour of this motion? All those opposed? The motion carries.

We're on to page 69.

Mr Duncan: I move that subsection 49(4) of the bill be amended by striking out "10 days" in the second line and substituting "30 days."

This gives tenants more notice when a tenancy agreement is terminated.

The Chair: Debate? All those in favour of this motion? Opposed? The motion fails.

Shall section 49, as amended, carry? Section 49, as amended, is carried.

We're on to page 70, a New Democratic Party motion.

Mr Silipo: I move that clause 51(b) of the bill be amended by striking out "or a unit in it" in the second line and substituting "or the unit occupied by the tenant."

This is an attempt to clarify which particular unit this would apply to.

The Chair: Further debate? All those in favour of this motion? Opposed? The motion is defeated.

We're on to page 71, a Liberal Party motion.

Mr Duncan: This is identical to the NDP motion, I believe, or at least the intention is the same, so I withdraw it.

The Chair: It's withdrawn.

Page 72.

Mr Gilchrist: I move that section 50 of the bill be struck out and the following substituted:

"Where purchasing landlord personally requires unit

"50(1) A landlord of a residential complex that contains no more than three residential units and that is subject to a tenancy agreement may give notice to the tenant on behalf of a purchaser of the residential complex to terminate the tenancy if,

"(a) the landlord has entered into an agreement of purchase and sale to sell the residential complex; and

"(b) the purchaser in good faith requires possession of the residential complex or a unit in it for the purpose of residential occupation by the purchaser, the purchaser's spouse or a child or parent of one of them.

"Period of notice

"(2) The date for termination specified in the notice shall be at least 60 days after the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term.

"Earlier termination by tenant

"(3) A tenant who receives notice of termination under subsection (1) may, at any time before the date specified in the notice, terminate the tenancy, effective on a specified date earlier than the date set out in the landlord's notice.

"Same

"(4) The date for termination specified in the tenant's notice shall be at least 10 days after the date the tenant's notice is given."

The amendment sets out the size of residential complexes in which a vendor-landlord may evict, on behalf of a purchaser, for the landlord's own use. A residential complex with a size limitation of no more than three residential units is specified, unlike the current drafting, which did not put any number. This is thought to be a realistic maximum size of what a purchaser might actually require for his or her own use.

There is also a technical amendment in subsection (2) clarifying that where the period of tenancy is not for a fixed term, the notice of termination should be the day the period of tenancy ends.

This primarily would be in the case where somebody buys a house that might previously have been occupied by no more than three tenants.

Mr Silipo: When I first looked at this, I thought it was clarifying the wording. But now that I look at it again, I wonder why, in 50(1)(b), it says "the purchaser in good faith requires possession of the residential complex or a unit in it." This would mean that if you have three units, if the purchaser requires, say, only two of those units for his use or family use and would continue to rent out the third, why is the government wanting to allow a situation in which as a result of that the existing tenant would be evicted?

Mr Gilchrist: A possible scenario might be a house that currently has two basement apartments. You'll recall that even from your legislation, Mr Silipo, there are provisions that where there are shared kitchen or washroom facilities, different rules apply. Depending on the layout of the house, it's quite appropriate that there could be a situation where someone buys a home and because of shared accommodation or any number of other circumstances, it would be appropriate that they have full possession of that house.

Mr Silipo: I understand that situation, but you don't need this wording to achieve that, I would suggest. This allows you to do more. It would allow a purchaser, in a situation where there are three units and the purchaser wants to live in, let's say, two of those units, to evict the tenant who is living in the third unit, which was completely separate. I find that troubling in here. I'm not sure if that's the intent. If it is, I oppose the intent. If it's not the intent, I suggest to the government that there's a problem with the drafting.

1740

Mr Gilchrist: I think it would be more a case the other way, where if I as a single person bought a home and there are three rental units in there right now, to not specify it this way, someone could allege that I only need one bedroom, that it's inappropriate for me to have the right to have a house to myself.

Mr Silipo: I'm not opposed to the notion of a purchaser coming in and saying they require occupation of the whole entity. That's why I'm suggesting that maybe the problem here is that the wording is wrong. If that's the case, you catch that by simply saying "requires possession of the residential complex," which you defined earlier on. But when you say "the residential complex or a unit in it," I suggest you're leaving open the possibility that if the new owner only requires two of the three units in the complex, they can still evict the third tenant even if that third unit has nothing to do with the personal needs of the new purchaser, which I think is the thrust of what you're trying to do here.

Mr Gilchrist: I hear your concerns, Mr Silipo, but basically what we were considering was that in most cases, when it's three or fewer, it's going to be a single-family home or was at one time. In terms of the conversion back, you're right; if I only require possession of one bedroom, is it still inappropriate for me to want the house

to myself? There may be circumstances where the purchaser does not require possession to greater than one but I think should still be entitled to look at that entire building as a single housing unit.

Mr Silipo: I don't want to belabour this unnecessarily, Chair, but I do want to be clear. I'm not disagreeing with Mr Gilchrist in the situation in which a new purchaser says he wants to have occupation of the entire entity, which we'll say for the sake of this discussion is three separate units when the person purchases the property. What I'm getting at is that in a triplex situation, this section allows a purchaser who is only intending to use two of the three units, but will continue to rent the third unit, to evict the tenant who is occupying the third unit. I'm suggesting it's unnecessary.

As I understand it, if what you want is to allow the purchaser to take possession of the property if they intend to use the whole thing, all you have to do is take out the words "or a unit in it" in (b) and that would still allow you to do that. In other words, if the purchaser wants to have occupation of the whole house for himself or his family, that's fine. I'm not opposing that. But if he or she only wants to occupy a part of the property and continue to rent part of it, why should they have the right to automatically evict the previous tenants?

Mr Gilchrist: As a final point, Mr Silipo, in looking again at the preamble, I think I would disagree with your interpretation on other grounds as well. That the landlord of a complex that contains no more than three units is being treated under this particular section, we'll agree with that. "May give notice to the tenant on behalf of a purchaser" if the purchaser requires the unit: In that case, I think it's saying the landlord would notify the unit occupant, up to three, that they are out.

Not being a lawyer, I won't presume to know the nuances, but I am told that the intent from the preamble is to say that if one needs to be out, the landlord has the right, when they sell the property, to move one out. If all three need to be out because I'm going to take possession of all three, then that right would be there, but only in buildings up to three. That's why we thought it was important to clarify, because you rarely would have a single-family home divided into more than that. Even if it were, we think that has probably fallen more into the category of a rooming-house and should be accorded different treatment.

Mr Duncan: First of all, to Mr Gilchrist, Robert Nixon, the last Treasurer of Ontario to balance a budget, used to say, "Never apologize for having to say you're not a lawyer."

I think this is a question of, is the cup half full or is it half empty? I think the government's intention with this wording is to deal fairly. What I find absolutely amazing is that you would use a section of the legislation to attempt to define this but you wouldn't deal with trying to define human rights issues in the legislation. It's sufficient to put human rights issues into regulation but this stuff here we're defining in the law.

I suspect the government's intentions are good here. I think Mr Silipo has certainly raised some good questions around the wording. I just find it amazing that we would use the legislation to try to define something as precise as this and at the same time, on the same day, we would say we would not use the legislation to define human rights issues more clearly.

Mr Sergio: Normally, unless the purchaser specifies in the offer to purchase that he wants vacancy of the entire building, be it a house with a basement apartment or a threeplex, why would the landlord have to give notice to the tenant?

Mr Gilchrist: Actually, we're agreeing with you. If the new purchaser doesn't want them out, they won't. It would only be where the new purchaser does want that existing — as you just specified, many times as it applies right now, someone will say, "I'll buy your house if I have vacant possession."

Mr Sergio: But the wording in here now gives the landlord the right to order the tenants to vacate.

Mr Gilchrist: Oh, no. Only when the purchaser wants it.

Mr Sergio: Only when the purchaser wants it? Okay.

Furthermore, on your three units or less, a basement apartment would have to be self-contained to be an apartment, at least within the city of North York.

Mr Gilchrist: Legal ones, yes.

Mr Sergio: So if you have them that nobody knows they are sharing the basement, three or four rooms, they are not legal apartments.

Mr Gilchrist: I agree with you there. They are not legal apartments.

The Chair: That's it? All those in favour of this motion? All those opposed? The motion carries.

Shall section 50, as amended, carry? Section 50, as amended, is carried.

We'll move to page 73, which is a government motion.

Mr Gilchrist: I move that subsection 51(2) of the bill be struck out and the following substituted:

"Same

"(2) The date for termination specified in the notice shall be at least 120 days after the notice is given and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term."

This sets out when a notice of termination for demolition, conversion or repair may take effect. This technical amendment clarifies that a notice must take effect at the end of the period of a tenancy where the tenancy is not of a fixed term.

The Chair: All those in favour of this motion? Opposed? The motion is carried.

Shall section 51, as amended, carry? I heard a no. All those in favour of section 51, as amended? All those opposed? Section 51, as amended, carries.

We're on to section 52, page 74.

Mr Gilchrist: I move that subsections 52(2) and (3) of the bill be struck out and the following substituted:

"Proposed units, security of tenure

"(2) Where a landlord has entered into an agreement of purchase and sale of a rental unit that is a proposed unit as defined in the Condominium Act, a landlord may not give a notice under section 49 or 50 to the tenant of the rental unit who was the tenant on the date the agreement of purchase and sale was entered into.

"Non-application of section

"(3) Subsections (1) and (2) do not apply with respect to a residential complex until the day set out in subsection (3.1) if no rental unit in the residential complex was rented before the date prescribed for the purposes of this subsection.

"Same

"(3.1) The day on which subsections (1) and (2) begin to apply under subsection (3) is the day that is the later of,

"(a) two years after the day on which the first rental unit was first rented; and

"(b) two years after the date prescribed for the purposes of this subsection."

This amendment clarifies that a landlord wishing to sell a rental unit slated for conversion to a condominium but not yet registered as such cannot give a notice of termination of tenancy for the landlord's own use outside of specified time frames. The amendment also clarifies what the time frames are when those provisions can take effect.

1750

Mr Duncan: On the whole issue of condominium conversion, one of the essential issues the government has to address in any housing policy is one that deals with the question of supply, not only supply of the higher end but supply at the lower end. In our view, the provisions with respect to condominium conversion will put additional pressure away from supply of rental housing. Accordingly, recognizing that these amendments are somewhat clarifying in nature and not substantive, we still find all the sections dealing with condominium conversions difficult to deal with in light of the government's objective vis-à-vis the creation of affordable rental housing.

The Chair: Further debate? All those in favour of this motion? All those opposed? The motion carries.

Shall section 52, as amended, carry? All those in favour of section 52, as amended? Opposed? Section 52, as amended, is carried.

Shall sections 53 to 56 carry? All those in favour of sections 53 to 56? All those opposed? Sections 53 to 56 are carried.

We're moving to section 56.1, page 75, a government motion.

Mr Gilchrist: I move that the bill be amended by adding the following section:

"Security of tenure, severance subdivision

"56.1 Where a rental unit becomes separately conveyable property due to a consent under section 53 of the Planning Act or a plan of subdivision under section 51 of that act, a landlord may not give a notice under section 49 or 50 to a person who was a tenant of the rental unit at the time of the consent or approval."

The reason for this amendment is to provide sitting tenants of rentals, where units become individualized

pieces of property after a severance process — so particularly a town-house complex that may be converted from rental to freehold — with the same security-of-tenure provisions as sitting tenants of residential complexes whose units undergo condominium conversion. In other words, we're ensuring that no matter what happens to that former apartment — it doesn't matter whether it becomes a condo or a freehold — we're guaranteeing that the same protections apply.

The Chair: Debate? All those in favour of this motion? The motion carries.

We're moving to section 57, page 76, a government motion.

Mr Gilchrist: I move that subsection 57(2) of the bill be struck out and the following substituted:

"Period of notice

"(2) The date for termination specified in the notice shall be at least the number of days after the date the notice is given that is set out in section 45 and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term."

It sets out when a notice of termination under subsection 57(1) may take effect. It is a technical amendment that clarifies the notice must take effect at the end of the period of tenancy if it's not a fixed term.

The Chair: Debate? All those in favour of this motion? The motion carries.

Shall section 57, as amended, carry? Section 57, as amended, is carried.

We're on to page 77, which is a government motion.

Mr Gilchrist: I move that subsection 58(1) of the bill be amended by striking out "If a tenant fails to pay rent in accordance with a tenancy agreement" at the beginning and substituting "If a tenant fails to pay rent lawfully owing under a tenancy agreement."

This sets out when a landlord may serve a notice of termination for non-payment of rent, what information the notice must contain, and that the notice is void if the tenant pays the rent before the landlord applies to the tribunal. This technical amendment to the section relates to the landlord's right to apply for eviction due to non-payment of rent. It changes the reference to the rent owing under a tenancy agreement to rent that is lawfully owing, reflecting the possibility that the rent under the tenancy agreement could be unlawful. We would not want a landlord to be able to go to the tribunal and seek remedies for rent which is deemed to be unlawful.

The Chair: Debate? All those in favour of this motion? All those opposed? The motion is carried.

Shall section 58, as amended, carry? Section 58, as amended, is carried.

We're on to section 59, page 78, a Liberal motion.

Mr Duncan: I move that clause 59(3)(b) of the bill be struck out and the following substituted:

"(b) set out the reasons and details respecting termination."

This builds on our earlier amendment, again specifying details on why a tenancy is being terminated. If I understand the government correctly, they may have dealt with

this in another section. Our reason for putting this forward is that we think it provides better protection for tenants and at the same time ensures that the government's objective with respect to facilitating a more efficient process to resolve tenant-landlord disputes is put in place.

The Chair: Debate? All those in favour? Opposed? This motion fails.

Mr Silipo, I think page 79 is identical. That motion is out of order.

Shall section 59 carry? All those in favour of section 59? All those opposed? Section 59 carries.

Members are pointing to the clock.

Mr Gilchrist: The bells haven't rung yet. If I may suggest, we're supposed to rely on the table. That's my understanding.

The Chair: I'll tell you what. The Chair is always five minutes behind, and we have another five minutes left so we'll proceed with section 60. We're on page 80, which is a Liberal application.

Mr Duncan: I move that clause 60(2)(b) of the bill be struck out and the following substituted:

"(b) set out the reasons and details respecting termination; and"

It's similar to our earlier amendment.

The Chair: Debate? All those in favour? Opposed? This motion fails.

Page 81 is identical.

Shall section 60 carry? Section 60 carries.

Page 82, a Liberal application.

Mr Duncan: I move that clause 61(3)(b) of the bill be struck out and the following substituted:

"(b) set out the reasons and details respecting termination; and"

Again this is evidentiary in nature. We think this will facilitate the better functioning of the tribunal when disputes arise.

The Chair: Debate? All those in favour? All those opposed? This motion fails.

Page 83, Mr Silipo, is out of order.

We're on to page 84.

Mr Gilchrist: I move that section 61 of the bill be struck out and the following substituted:

"Termination for cause, reasonable enjoyment

"61(1) A landlord may give a tenant notice of termination of the tenancy if the conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant is such that it substantially interferes with the reasonable enjoyment of the residential complex for all usual purposes by the landlord or another tenant or substantially interferes with another lawful right, privilege or interest of the landlord or another tenant.

"Notice

"(2) A notice of termination under subsection (1) shall,

"(a) provide a termination date not earlier than the 20th day after the notice is given;

"(b) set out the grounds for termination; and

“(c) require the tenant, within seven days, to stop the conduct or activity or correct the omission set out in the notice.

“Notice void if tenant complies

“(3) The notice of termination under subsection (1) is void if the tenant, within seven days after receiving the notice, stops the conduct or activity or corrects the omission.

“Termination for cause, act impairs safety

“61.1(1) A landlord may give a tenant notice of termination of the tenancy if,

“(a) an act or omission of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant seriously impairs or has seriously impaired the safety of any person; and

“(b) the act or omission occurs in the residential complex.

“Same

“(2) A notice of termination under this section shall provide a termination date not earlier than the 10th day after the notice is given and set out the grounds for termination.”

This amendment clarifies that termination of a tenancy for cause, reasonable enjoyment, can be given in situations where the conduct of another occupant of the rental unit's

behaviour substantially interferes with the reasonable enjoyment of the premises by the landlord and the tenant. There is no reference in the current drafting of the TPA to another occupant of the rental unit. As well, the amendment that clarifies this provision can apply in cases where a tenant, another occupant of the rental unit or a person permitted into the complex by the tenant substantially interferes with another right or privilege of the landlord or another tenant.

The amendment in section 61.1 provides for a fast-track eviction process for acts or omissions of a tenant, another occupant of the rental unit or a guest who seriously impairs the health or safety of the landlord or any person. The amendment is intended to deal with infractions that are so serious they cannot be remedied and need to be speedily addressed.

The Chair: Debate? All those in favour of this motion? All those opposed? The motion carries.

Shall section 61, as amended, carry? All those in favour? Opposed? Section 61, as amended, is carried.

It being 6 of the clock, I remind members that this committee is adjourned until September 4th, next Thursday, at 10 o'clock.

The committee adjourned at 1800.

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 4 September 1997

Jeudi 4 septembre 1997

*The committee met at 1000 in room 151.*TENANT PROTECTION ACT, 1996
LOI DE 1996 SUR LA PROTECTION
DES LOCATAIRES

Consideration of Bill 96, An Act to Consolidate and Revise the Law with respect to Residential Tenancies / Projet de loi 96, Loi codifiant et révisant le droit de la location à usage d'habitation.

The Chair (Mr David Tilson): Ladies and gentlemen, we will convene the meeting. This is the standing committee on general government and we are reviewing Bill 96. This is the final day for clause-by-clause. Just to remind you, I will read one paragraph from the order of the assembly. This is the second day of clause-by-clause, and so I'll read the order; many of you have this.

"At 5 pm on the second day of clause-by-clause deliberations, those amendments which have not yet been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. Any divisions required shall be deferred until all remaining questions have been put and taken in succession, with one 20-minute waiting period allowed pursuant to standing order 128(a)."

My records show that we have voted on and passed all the sections up to section 61, with the exception of sections 116, 146 and 200.

Mr Steve Gilchrist (Scarborough East): I think you mean "with the addition" of sections —

The Chair: Yes. So if you have your books before you, we are now on page 86, which is a proposed amendment by the Liberal caucus to section 62.

Mr Dwight Duncan (Windsor-Walkerville): I move that clause 62(2)(b) of the bill be struck out and the following substituted:

"(b) set out the reasons and details respecting termination; and."

This is the same as the amendments we put forward earlier. We feel this would provide better evidence for later tribunal hearings and will cause the hearings to work more efficiently.

Mr Tony Silipo (Dovercourt): Chair, as you know, we have an identical amendment which follows. We sup-

port the need to have a clear obligation set out upon the landlord in this case which would require them to set out the reasons and details respecting termination.

The Chair: Further debate? All those in favour of this motion? All those opposed? The motion fails.

You're right, Mr Silipo. Your amendment is identical.

Shall section 62 of the bill carry? All those in favour of section 62? All those opposed? Section 62 carries.

Shall sections 63 and 64 carry? Sections 63 and 64 carry.

We're now on page 88, which is a government motion.

Mr Gilchrist: I move that section 65 of the bill be struck out and the following substituted:

"Application by landlord

"65(1) A landlord may apply to the tribunal for an order terminating a tenancy and evicting the tenant if the landlord has given notice to terminate the tenancy under this act or under the former part IV of the Landlord and Tenant Act.

"Same

"(2) An application under subsection (1) may not be made later than 30 days after the termination date specified in the notice.

"Exception

"(3) Subsection (2) does not apply with respect to an application based on the tenant's failure to pay rent."

This amendment removes the 30-day limitation period for making an application after giving a notice of termination for arrears of rent. It is consistent with the current provisions in the Landlord and Tenant Act. As drafted in Bill 96, if a landlord failed to make an application within this 30-day period, the notice of termination would have become unenforceable. Concern had been raised that the current provisions of the bill will force a landlord to make an application even though the parties have agreed the tenant will pay for arrears in instalments, because otherwise, if the tenant breaches their agreement, the landlord would have to re-serve the notice, and the process evicting the tenant would be further delayed. So this allows for an agreement to pay rent arrears through instalments and we think it is an improvement over the current wording in the act.

The Chair: Debate? All those in favour of this motion? All those opposed? This motion carries.

Shall section 65, as amended, carry? Section 65, as amended, carries.

Shall sections 66 and 67 carry? Sections 66 and 67 are carried.

Page 89 is a government motion to amend section 68.

Mr Gilchrist: I move that subsection 68(2) of the bill be struck out and the following substituted:

"Discontinuance where rent paid

"(2) If an application is brought under section 65 based on a notice of termination under section 58 and if before an eviction order under the application becomes enforceable the tenant pays to the tribunal or the landlord all the rent in arrears and compensation owing under section 43, any costs ordered by the tribunal and the fee for making the application, that part of the application relating to arrears of rent, compensation and eviction of the tenant on the grounds of arrears of rent is discontinued and any order under it is void."

This amendment stipulates that in situations where a landlord applies for an eviction based on non-payment of rent, a tenant could pay the rent arrears, application fee and any other costs associated with the application directly to the landlord or to the tribunal. Current drafting requires that it be paid only to the tribunal. This amendment is intended to streamline the process for collecting rent arrears and reduces the administrative burden on the tribunal.

The amendment also clarifies the point in time at which such payment must be made in order to void the order. This is when the eviction order becomes enforceable. Current drafting, which refers to when the order becomes final, is ambiguous. We believe this revision clarifies matters.

The Chair: Debate? All those in favour of this motion? Opposed? This motion is carried.

Shall section 68, as amended, carry? Section 68, as amended, is carried.

Shall section 69 carry? Section 69 is carried.

We're now on page 90, a proposed amendment to section 70. It's a government motion.

Mr Gilchrist: I move that subsection 70(2) of the bill be amended by striking out "claiming substantial interference with the reasonable enjoyment of a residential complex is based on" in the first, second and third lines and substituting "based on a notice of termination under section 61 or section 61.1 is grounded on."

This is an ancillary amendment which parallels amendments made that propose termination based on impairment of safety and interference with reasonable enjoyment and deals with applications for termination based on pets where safety has been impaired or there has been interference with reasonable enjoyment.

The Chair: Debate? All those in favour of the motion? All those opposed? The motion carries.

Mr Silipo, you have a proposed amendment on page 91.

Mr Silipo: I move that subsection 70(2) of the bill be amended by striking out "claiming substantial interference with the reasonable enjoyment of a residential complex" in the first, second and third lines.

We believe this would actually be a preferable way to go than the amendment that's just been passed, but given

what's happened, I assume this won't carry. But we think this is a better way to do it.

1010

The Chair: Further debate? All those in favour of this motion? Opposed? The motion fails.

Shall section 70, as amended, carry? Carried.

Shall section 71 carry? Section 71 carries.

We are now on page 92, which is a Liberal motion.

Mr Duncan: I move that subsection 72(1) of the bill be amended by striking out "without notice to the tenant" in the first and second lines and by striking out "an agreement" in the second line of clause (a) and substituting "a written agreement."

This would require landlords to give tenants notice if they go to the tribunal. Two, it would require arrangements to break a lease to be in writing. We think once again that this is a matter of good form. I suspect most landlords would probably do this in any event, and we think it would speed up any applications later on to the tribunal.

The Chair: Debate? All those in favour of this motion? Opposed? The motion fails.

Mr Silipo, I believe page 93 is out of order. It's identical to the former application.

Page 94.

Mr Duncan: I move that subsection 72(2) of the bill be amended by inserting after "application" in the second line "a copy of the agreement or notice and."

This builds on the previous amendment. Again it's compelling that things be done in writing where there's agreement to terminate a tenant's notice.

The Chair: Debate? All those in favour of this motion? Opposed? The motion fails.

Mr Silipo, your motion on page 95 is identical to the Liberal application, so it's out of order. We'll turn to page 97, which is a Liberal application. We'll come back to page 96.

Mr Duncan: I move that subsection 72(6) of the bill be amended by striking out "10 days" in the third line and substituting "14 days."

This gives more time for tenants and landlords to understand a tribunal ruling.

The Chair: Debate? All those in favour? Opposed? That particular motion fails.

We'll return to page 96. Mr Silipo, I don't believe this is in order. I think it's not —

Mr Silipo: Excuse me. Wasn't it one of the ones corrected? I think this was one of the ones provided in —

The Chair: Excuse me. I've just to confer with the clerk for a minute.

I'm sorry, Mr Silipo. I apologize. The motion is in order. Members of the committee will recall that this page has been replaced. You may proceed.

Mr Silipo: What I think I'm moving then is, I move that subsections 72(4), (5), (6), (7) and (8) of the bill be struck out.

Just briefly, I would indicate that we find it particularly objectionable that the process here would allow a landlord, without notice to the tenant, to apply for and get,

particularly under subsection 73(4), an order terminating the tenancy and evicting the tenant without any notice being given to the tenant. That's the crux upon which we believe that this whole section shouldn't exist.

The Chair: Debate? All those in favour of this motion? Opposed? This motion fails.

We will now turn to page 98, which is a proposed government amendment.

Mr Gilchrist: I move that section 72 of the bill be struck out and the following substituted:

"Agreement to terminate, tenant's notice

"72(1) A landlord may, without notice to the tenant, apply to the tribunal for an order terminating a tenancy and evicting the tenant if,

"(a) the landlord and tenant have entered into an agreement to terminate the tenancy; or

"(b) the tenant has given the landlord notice of termination of the tenancy.

"Same

"(2) The landlord shall include with the application an affidavit verifying the agreement or notice of termination, as the case may be.

"Same

"(3) An application under subsection (1) shall not be made later than 30 days after the termination date specified in the agreement or notice.

"Order

"(4) On receipt of the application, the tribunal may make an order terminating the tenancy and evicting the tenant.

"Same

"(5) An order under subsection (4) shall be effective not earlier than,

"(a) the date specified in the agreement, in the case of an application under clause (1)(a); or

"(b) the termination date set out in the notice, in the case of an application under clause (1)(b).

"Set aside order

"(6) The respondent may make a motion to the tribunal, on notice to the applicant, to have the order set aside within 10 days after the order is issued.

"Same

"(7) An order under subsection (4) is stayed when a motion to have the order set aside is received by the tribunal and shall not be enforced under this act or as an order of the court during the stay.

"Same

"(8) If the tribunal sets the order aside, the tribunal shall hear the merits of the application.

"Application based on previous order, mediated settlement

72.1(1) A landlord may, without notice to the tenant, apply to the tribunal for an order terminating a tenancy or evicting the tenant if,

"(a) the landlord had previously applied to the tribunal for an order terminating the tenancy or evicting the tenant;

"(b) with respect to that application, an order or a settlement mediated under section 171 provided that the

landlord could apply under this section if the tenant did not meet specified conditions of the order or settlement; and

"(c) the tenant has not met those conditions.

"Same

"(2) The landlord shall include with the application a copy of the order or settlement and an affidavit setting out what conditions of the order or settlement have not been met and how they have not been met.

"Same

"(3) An application under this section shall not be made later than 30 days after a failure of the tenant to meet a condition specified in the order or settlement.

"Same

"(4) Subsections 72(4), (6) and (7) apply, with necessary modifications, with respect to an application under this section.

"Same

"(5) If the tribunal sets the order aside, the tribunal shall consider whether a failure to meet the conditions occurred."

Amendments to clauses 72(1)(a) and (b) will allow a landlord to apply for an eviction order prior to the termination date set out in the notice. A landlord will be able to make an application if it is on the basis of the landlord and tenant agreeing to terminate or the tenant giving notice to the landlord.

The amendment in section 72.1 allows the landlord to apply to the tribunal for an eviction order based on a previous application to the tribunal which resulted in a consent order or a mediated agreement which the tenant did not abide by.

The process the landlord would follow to terminate and evict a tenant would be the same as the one set out for terminating a tenancy and evicting tenants who do not leave after the agreed end of the tenancy or after a tenant has given notice of termination. No hearing will be scheduled unless a tribunal member considers it necessary, and the tribunal would then issue and mail the order to the landlord and tenant. The tenant would have 10 days in which to request a set-aside. If the tenant does not request a set-aside, the order is enforceable on the 11th day after it is issued.

The ability for the tribunal to issue such an order or deal effectively with breaches in landlord and tenant agreements is not currently available under Bill 96. Although there is not specific authority for issuing such orders under the Landlord and Tenant Act, many courts have issued them and the proposed amendment recognizes that current practice.

Mr Duncan: Again, we feel that the government, in proposing this amendment, has not dealt with a fundamental concern raised in the committee hearings and which we think, quite frankly, is a matter of good form. Subsection 72(1) still contains the line "without notice to the tenant." We think that not only in the interest of fairness but also in the interest of good form, the interest of good business practice, written notice ought to be given.

A landlord can still break a lease without doing it in writing, based on our read of this amendment. We heard

considerable testimony throughout the hearings around this section and believe the government's motion does not address those concerns that were raised. We attempted to do that in our motion, which the committee subsequently defeated.

1020

Mr Silipo: The question of not providing notice to the tenant is really at the heart of the problem in this whole section. I want to say to the government members that while you may think this is, on the one hand, a fairer way to go and, secondly, an administratively faster way to go, you're not achieving either objective because it certainly isn't fair, because the tenant, whether he or she may be in the wrong, is not given the appropriate remedy at the first instance to be able to know that the landlord is seeking this order. Secondly, where the tenant then chooses to exercise the right that he or she may have, you're going to run into the same kind of problems in terms of the process being slowed down from the perspective of the landlord, so you're not achieving anything other than heightening the tension between landlord and tenant in a particular situation.

That could be done away with by a simple change in this which would ensure that tenants have to be given notice when a landlord is proceeding. It doesn't affect the landlord's rights to do that. It means that the parties are both aware of what's going on and tenants then would have the choice of deciding if it's a case that they want to dispute and do so before the fact rather than after. That just would lead to a much fairer way, and the fact that you're insisting on not providing that right to the tenant in this instance makes this particular section very problematic.

Mr Mario Sergio (Yorkview): It's very clear in clauses 72(1)(a) and (b) here where there is an agreement between the landlord and the tenant. If there is an agreement, then what is the purpose of applying beforehand to the tribunal? I expect it was the intent of the government to expedite things for both without using a sledgehammer, if you will, to kill a fly. You're doing exactly that in this particular case, especially in (b), where the tenant is demanding to terminate the lease. Especially in that instance, why would the landlord go ahead of time and apply to the tribunal, when I, the tenant, want to get out of the unit? There is absolutely no reason to apply to the tribunal.

If you have, let's say, a large landlord who's got thousands of units, you may just clog the tribunal with thousands of applications on a yearly basis from one particular landlord for no reason whatsoever. Who is to say that a genuine tenant has been asking the landlord to terminate the lease and he's going to abandon the unit, he's going to vacate that unit — why would the landlord apply to the tribunal? As a tenant, it doesn't make sense. It's like you want to go to the OMB prior to a rezoning application having been dealt with by the local municipality. It just doesn't make any sense.

Perhaps the assistant can explain that.

Mr Gilchrist: I'd be pleased to clarify matters for members. Let's look at 72(1)(a) and (b). The only time

anything in this section applies is if the landlord and the tenant have already agreed to part. The tenant has said, "I'm leaving at the end of the month." Okay. So the end of the month comes and the tenant doesn't move out. That is why we think it isn't appropriate to deal with things such as notice; obviously the tenant is in breach of the agreement. So this isn't a matter of going to the tribunal before that. This succeeds an agreement which then is not fulfilled.

Obviously if I'm a landlord and you're the tenant and I take you at your word that you'll be leaving at the end of this month, and a couple of days into the next month, you still haven't left but in the meantime I relet your apartment, I've got a problem. I think you would recognize that. I obviously can't accommodate both the old tenant and the new tenant. That's why we believe it's appropriate that without any delay in that scenario a landlord could apply to the tribunal for an order to declare that tenancy over. But 72(1)(a) and (b) are preconditions to all of that.

Mr Duncan: Save and except, and I stand to be corrected on this by the parliamentary assistant, my understanding of the bill in earlier sections is that this agreement can be written or any written agreement and it therefore becomes the word of one versus another. We attempted to put an amendment earlier in the bill that would have provided that protection.

Our fear with this particular section is that if there is no written agreement to break the tenancy, if there's no evidence of that, it becomes the word of one versus the other, putting the tribunal in an awful position and we think ultimately creating a situation where you're going to have more time spent in hearings, more time trying to resolve these disputes, whereas if the proper form, proper business practice had been agreed to earlier, that may not occur.

The only other point I would like to make is that throughout the hearings we heard the concern expressed around the whole notion of harassment, what we believe is the general theme of the bill that removes tenant protection and makes it easier for that small percentage of landlords who are bad to harass a tenant into something like this. The tenant may have second thoughts about it.

I stand to be corrected, but if my understanding of the bill is correct, the agreement to terminate could have been done without writing. It could have been based on the word of one versus another. We frankly think that you're subverting your own objective of providing for faster dispute resolution by setting the bill up in this fashion.

Mr Sergio: This may be right, but I just don't read it so. If that was the intent, that there is an agreement, especially on the asking of the tenants themselves, I would have incorporated in 72(1) "only in those particular cases." That's what I would have said, that even though there is an agreement under those conditions, the landlord would apply to the tribunal. I don't see anything in there; I really don't. It adds to any subsequent clauses but does not detract from the main objective of 72(a), where the landlord is being given carte blanche to say, "Yes, just in case you're pulling my leg and you're not going to vacate the unit, I have already applied to the tribunal."

I don't have to tell you that in most every other case there is a grace period, as we call it, and in this particular case tenants are not getting anything whatsoever. When a landlord is being given the power to say, "You have asked me, the landlord, to vacate the unit, but even so I go ahead and apply, just in case you turn out to be sour at the end of the lease," I don't read it that way and I don't think we can support it the way it is.

Mr John L. Parker (York East): I think we're falling into the trap of looking at this from the point of view of a landlord versus a tenant. I see this provision as something that protects tenants. It protects the next tenant who wants to move into the unit.

Say you're a tenant who has bargained in good faith with a landlord to move into a unit that's about to become vacant in his building. Say it's my building. I'm the landlord; you're the tenant. The existing tenant has agreed to move out. You've made a deal with me to move in. You have vacated your apartment. You are without a place to live if you can't move into the unit that we bargained for. The existing tenant who has agreed to leave then, for whatever reason, by whatever means, refuses or fails to vacate. You, as the new tenant, are the person who's out of luck. The landlord isn't out of luck. The landlord can continue to collect his rent from the tenant who refused to vacate. The tenant who refused to vacate is protected. It's the tenant who intends to move in, who has in good faith abandoned his existing apartment, who's disadvantaged by the status quo. He's the one who's protected by this amendment.

Mr Duncan: What if the existing tenant goes to the tribunal and says, "I never agreed to that"? Then what do you do? You've got a mess. So you're not protecting the so-called subsequent tenant. Had you accepted amendments that would have provided for what — I quite suspect that most thoughtful landlords will put it in writing, and most of them are, in my view, thoughtful. Had you agreed to those amendments, there might be some consistency in your argument, but there's not.

What you've done, in my view and in the view of the official opposition, is set up something that not only doesn't protect the existing tenant, it certainly doesn't protect any subsequent tenant or tenant waiting for vacant possession. It certainly doesn't benefit the landlord who may have in good faith, following the law, said that he has an agreement. Then he or she is exposed to this notion that the tenant can just simply say, "I never agreed to that." In my view it's simply bad form, removing all of the considerations about whether a tenant's good or a landlord's bad or vice versa.

1030

The Chair: Further debate? All in favour of the motion? Opposed? The motion carries.

Shall section 72, as amended, carry? All those in favour of section 72? Opposed? Section 72 carries.

Shall section 73 carry? Section 73 carries.

We are on to page 100, which is a government motion proposing an amendment to section 74.

Mr Gilchrist: I move that subsection 74(1) of the bill be struck out and the following substituted:

"(1) A landlord may dispose of property in a rental unit that a tenant has abandoned and property of persons occupying the rental unit that is in the residential complex in which the rental unit is located in accordance with subsections (1.1) and (1.2) if,

"(a) the landlord obtains an order terminating the tenancy under section 73; or

"(b) the landlord gives notice to the tenant of the rental unit and to the tribunal of the landlord's intention to dispose of the property.

"(1.1) If the tenant has abandoned the rental unit, the landlord may dispose of any unsafe or unhygienic items immediately.

"(1.2) The landlord may sell, retain for the landlord's own use or otherwise dispose of any other items if 30 days have passed after obtaining the order referred to in clause (1)(a) or giving the notice referred to in clause (1)(b) to the tenant and the tribunal."

If I may speak to the amendment, this section sets out the rules for landlords to dispose of property remaining in a unit abandoned by the tenant. The amendment allows the landlord to dispose of abandoned property without first having to obtain an order terminating the tenancy. In this situation the landlord is required to send a notice to both the tenant and the tribunal setting out the landlord's intention regarding disposal of the property.

Mr Duncan: I wonder, before I use up my time, if I can put a question to the parliamentary assistant.

The Chair: You can do whatever you wish, Mr Duncan.

Mr Duncan: I'd like the floor back after I get the answer. Is that acceptable?

The Chair: The clock is ticking.

Mr Duncan: Sections 73 and 74 taken together, how does the government view the notion of abandonment? It's undefined in the bill in section 73. It says, "If a landlord believes that a tenant has abandoned a rental unit, the landlord may apply to the tribunal for an order terminating the tenancy." How do you view abandonment? Will you specify that in the regulations?

Mr Gilchrist: First and foremost, the existing case law and the court treatment of the existing Landlord and Tenant Act would give any number of precedents on which the tribunal would be able to rely, but basically speaking, your ceasing to pay the rent and your ceasing to occupy the unit would be the two most important criteria to determine abandonment. So if all of a sudden you disappear and the rent stopped being received by the landlord, then I think he would have a fair reason to believe that you have abandoned that unit.

Mr Duncan: Will the government specify the cease-to-pay-rent notion in the regulations? I think the wording in section 73 is really loose in terms of abandonment. If it's the government's intention that a unit not be used — what if a unit were vacant and the rent was being paid? I can't envision a scenario —

Mr Gilchrist: Then it's not abandoned.

Mr Duncan: Then it's not abandoned?

Mr Gilchrist: Absolutely.

Mr Duncan: Okay. The case law supports that?

Mr Gilchrist: More than the case law; we'll say categorically that if you're paying your rent, it's your unit. There's no law that says that a tenant has to be in their unit on any given day or even month.

Mr Duncan: It's an unusual situation and I don't want to be splitting hairs, but what about that scenario where somebody isn't in an apartment? What causes me to think about this is my own situation here in the apartment the Legislature rents for me. A landlord could have realistically thought that I had abandoned the apartment in July if he or she wanted to. By opening up the notion of removing the rent control once a unit is abandoned or is vacated, that definition of "abandonment," even though the rent may be paid and it's up to the landlord's interpretation — we would urge strongly that the government look at defining that in the regulations, the notion of a definition of "abandonment." We think it'll provide greater clarity to the issue, given what you're doing with decontrol after somebody vacates.

Mr Gilchrist: I'm pleased to give you that undertaking, Mr Duncan. I have no problem, I'm sure the ministry will have no problem, ensuring that the definition makes it very clear that as long as you're paying your rent, in no way, shape or form could you be considered to have abandoned the unit just because you're not there. The payment of rent will be seen as an absolute invalidation of the concept of abandonment.

Mr Duncan: That addresses my question.

The Chair: Further debate? All those in favour of the motion? All those opposed? The motion carries.

Page 101.

Mr Gilchrist: I move that subsection 74(2) of the bill be amended by striking out "paragraph 2 of subsection (1)" in the fourth line and substituting "subsection (1.2)."

This amendment merely parallels the amendment that we just passed.

The Chair: Debate? All those in favour of the motion? All those opposed? The motion carries.

We are now on to an amended page 102. Mr Gilchrist, it's a government motion.

Mr Gilchrist: I move that subsection 74(5) of the bill be amended by striking out "the day" in the first line and substituting "the date the notice referred to in clause (1)(b) is given to the tenant and the tribunal or."

The reason for this amendment: This allows a tenant to claim from a landlord, within six months after issuance of a termination order, property that the tenant has abandoned. This technical amendment reflects the proposed amendment for subsection 74(1), which we just voted on, in situations where a notice of the landlord's intention for disposing of the property is given. In those cases, the tenant has six months after giving the notice to claim property.

The Chair: Debate? All those in favour? Opposed? The motion carries.

Mr Duncan, page 103 is a recommendation and not an amendment; it's out of order; the same with Mr Silipo's proposed motion on page 104. It's a recommendation, not a proposed amendment, so it is out of order.

Shall section 74, as amended, carry? All those in favour of section 74, as amended? All those opposed? Section 74, as amended, carries.

Shall sections 75, 76, 77 and 78 carry? Sections 75, 76, 77 and 78 carry.

We are now on to page 105 of the materials, which is a proposed Liberal application.

Mr Duncan: I move that subsection 79(1) of the bill be struck out and the following substituted:

"Power of tribunal, eviction

"(1) Upon an application for an order evicting a tenant or subtenant, the tribunal may, despite any other provision of this act or the tenancy agreement, order that the enforcement of the order of eviction be postponed for a period of time."

This removes the part of the section that forces the tribunal to refuse an application to evict unless it would be unfair to refuse. We believe that this is better wording in the section.

The Chair: Debate? All those in favour of this motion? All those opposed? The motion fails.

Shall section 79 carry? All those in favour of section 79? All those opposed to section 79? It carries.

Shall sections 80, 81, 82, 83 and 84 carry? Sections 80, 81, 82, 83 and 84 carry.

We're on to page 106, which is a government motion.

1040

Mr Gilchrist: I move that section 85 of the bill be amended by striking out "and 82" in the first line and substituting "82 and 93."

It clarifies that a tenant who has sublet a rental unit may make application as a landlord under sections 58, 63, 65, 81 and 82. This amendment also includes the landlord's application as permitted under section 93, which is an application to transfer a care home tenant.

Mr Duncan: We will vote against this amendment simply because we believe that everything you're doing with respect to care home tenants is wrong and is flawed. We'll have an opportunity to debate that later on.

The Chair: All those in favour of this motion? All those opposed? This motion carries. Shall section 85, as amended, carry? Section 85, as amended, carries.

We are now on page 107, which is a Liberal application. Mr Duncan.

Mr Duncan: I move that section 86 of the bill be struck out and the following substituted:

"Care homes"

"86. The Minister of Municipal Affairs and Housing shall consult with the Minister of Health and the Minister of Community and Social Services before introducing legislation with respect to care homes."

We have had ample testimony around the whole issue of care homes. This bill, we believe, and we are persuaded by the testimony, has dramatic impact on care homes. We haven't even clearly defined in this bill what a care home

is, let alone how they ought to be regulated, or whether or not they should be regulated. It is the view of the official opposition that the government should be dealing with care homes in separate legislation when all of the issues around care homes can be discussed.

We are of the view that there ought to be a full discussion. We've seen things such as the Lightman report; we've had testimony before this committee; we see bylaws in a couple of cities in Ontario. I think most thoughtful analysts in all political parties agree that at the very least these issues should be dealt with in a more complete fashion. The intent of this motion is to say we do not support dealing with care homes in this bill. Recognizing what the government is trying to achieve with respect to landlord-tenant relationships, the issue ought to be addressed. It ought to be addressed more completely.

Other governments have failed to address the issues that have been raised. We are not suggesting this in a partisan fashion. At the end of the day we probably will not agree with the government in many instances, but we think that to deal with this whole area in this fashion, without a full discussion around all of the issues that make care homes or lodging homes or rest homes unique, and their needs unique, is a mistake. We would prefer to see the government deal with this question separately and deal with it in the context of the health and social service issues that impact not only on the residents of those homes but also on the owners of those home and the providers of the service.

Mr Silipo: We disagree with our Liberal counterparts in their approach in this area of tenancies with respect to care homes. We believe that while there are clearly issues in the relationship between landlords and tenants as they apply to people who live in care homes and the whole array, and I think we know what those are, that relationship in our view is based upon the typical relationship of a landlord and tenant situation. As I say, while there are modifications that one could argue need to be done in the present legislation, many of the features of which I know are reflected in this part provide for and recognize that that relationship needs to be set up clearly in law on the basis of understanding that there is at the heart of the matter a landlord and tenant relationship.

We believe very strongly, for example, that the provisions of subsection 86(1), which state that there shall be a written tenancy agreement relating to the tenancy of every tenant in a care home, absolutely need to be in legislation. I was proud to be a member of a government that brought in those changes. I would be the first to say I realize that there still are ongoing issues with respect to this whole area of law, but I don't think you deal with those problems by taking this whole thing out of the landlord-tenant relationship. To do so would be to say that there isn't at the heart of the relationship here a landlord and tenant relationship. I believe and we believe that there is, therefore whatever legislation exists that relates to tenancy is the place to deal with that.

I'm not sure where the Liberal Party is going with this in terms of what they mean by setting up something differ-

ently or by not proceeding with these sections. If they're talking about maintaining the current law, then obviously that's something we would support. If they're talking about doing away with some of the basic protections that tenants have in the present circumstance, then that's not a position that we could support.

There are clearly pieces of this part, part IV that we are now entering into through section 86, particularly when we get to sections 93 and, I believe, 94, that we have some real problems with in terms of the rights that are being given to the landlord to transfer tenants unilaterally, and I'll talk more about that when we get to them. But the basic premise which is reflected in section 86 and which recognizes that there should be a written tenancy agreement relating to the tenancy of every tenant in a care home and that that agreement should also set out under subsection (2) what's been agreed to with respect to care services and meals and the charges for those services, that that needs to be part of the agreement is at the basis of the kind of relationship we need to have set out in law that applies to people who live in a care home.

Whatever else the care home is for those individuals, it's their home and that needs to be recognized in law and the protections afforded to all of the tenants need to be provided to them as well.

Mr Gilchrist: I'd like to thank Mr Silipo and follow up on his comments. I think he has hit the nail right on the head. While we will understandably have points of disagreement as we go through any piece of legislation, there's no doubt that it is fundamentally important to ensure that every tenant of every kind of facility, whether it's a private home or a care home, be afforded those same protections as a tenant. More to the point, we think we've added a number of features, a number of improvements to the existing legislation, and again while those are debatable points, we believe this is still a work in progress.

I don't fundamentally disagree with you, Mr Duncan, that in the fullness of time we could continue to work on the nuances. Another argument could be made similarly for owned-home, leased-lot communities and mobile home parks, that they too are unique enough to at some point warrant their own legislation and evolve out of a catch-all bill such as this one, to address in even more detail the idiosyncrasies and the different issues that are in those facilities. But at its root we think it's fundamentally important that the basic protections that were brought in by the previous government are maintained. We believe the act does that and in fact expands upon them.

Mr Duncan: I don't know how you can have it both ways. You can't on the one hand argue that part IV protects people in care homes and then later on argue against another section in the same part of the bill that says it doesn't. By not dealing with this here does not take away those protections, in our view, that have already been put into law and it forces us to deal with the issues that weren't addressed. Frankly, Professor Lightman addressed the question of whether tenancy and care ought to be in the same arrangement. There are thousands of vulnerable individuals in this province, and I respectfully submit to

the parliamentary assistant that it's not the same as dealing with mobile homes or trailer homes. You're dealing with vulnerable people; you're dealing with people who don't have the full protections that they've needed.

Two municipalities in this province have moved through bylaw to address at least some of the questions. We believe section 93 undermines everything that has been achieved by previous governments. We believe to consider section 86 in the same part of the bill as section 93 fundamentally says you don't comprehend the fullness of the issue. The government has had reports; the government's had studies. Mr Gilchrist says "in the fullness of time." Frankly, previous governments had time to deal with these issues and didn't deal with them. Ours was one of them. I believe the government's missing an opportunity now to act in a more complete way. Frankly, further in this part, section 93 we think is setting back the protection that people in care homes desperately need.

I can tell you — I helped draft one of those two bylaws — that they are needed right across the province. Professor Lightman has argued persuasively about the need for these protections. It's a shame, and we acknowledge that we didn't deal with it either when we had the opportunity. I say that we should deal with it completely. The amendment we're proposing does not undo those other protections and we think that all parties should come together and deal with this in a substantive fashion very quickly.

1050

Mr Sergio: I have to add some thoughts on this as well, and I will tell you why I agree with my colleague Mr Duncan. I find the answer in 86(2), which addresses the tenancy agreement — and I don't dispute that there should be a tenancy agreement — but more specifically in clause 89. It deals with providing services and care according to that tenancy agreement. That's the crux of the matter here. It is providing the service and the care according to that tenancy agreement. This is not what the tenants of care homes and other homes are getting today. I don't have to tell you why, Mr Chair. It is because of the cuts the government has been doing, solely.

I am only going to mention the home care under question, but there is an investigation going on in a particular care home, and I speak of that as I am involved with seniors a lot, where there were three particular nurses or assistants taking care of 10 seniors, if you will, or tenants, and now they are down to one. I don't have to tell you that sometimes it takes half an hour to feed a couple of spoonfuls to one of those seniors in a care home or other institution. I have to tell you that those seniors are not getting nearly the attention, the care, the supervision they are entitled to according to the agreement as specified in this particular brief legislation here. That is why I think it is important to have a particular act revised, addressing the needs of that group.

When you have family members attending those homes, they have no idea where their relative is. When you ask a question of the home care, they say: "You have to go and look for yourself because we don't have time. We can't go and look. They move all over the place." Seniors are found

in other people's beds. They keep losing clothes, shoes, whatever, because they don't remember any more where they leave them, where they go. They go unfed because an attendant or nurse cannot spend those twenty minutes to feed a particular senior. They are battered and bruised. They keep falling. They are not being helped. We have proof of that. We do have proof of that. That is why I have to agree with Mr Duncan that this is an area that deserves attention on its own.

For the sake of a tenancy, I agree. But I think we have to go further than that and I think we have to address that.

The Chair: Further debate? All those in favour of this motion? Opposed? This motion fails.

Shall section 86 carry? Section 86 carries.

Shall sections 87, 88, 89 and 90 carry? All those in favour?

Mr Duncan: Just on the question before we vote, we want to specify very clearly that we think the issue of care homes ought to be addressed separately, and in its entirety. These sections in this bill are tied into the same sections, sections 93 and so on, that we think are dangerous. Not only do they not look at the broader question, but we believe they're dangerous. We believe the bill is fundamentally flawed at this section. We believe the whole issue of care homes and the regulation of care homes, as well as tenancy and other service issues, should be addressed separately.

The Chair: Mr Duncan, I apologize. I did ignore page 108.

Mr Duncan: I just assumed that was out of order.

The Chair: Yes.

Mr Silipo: Just briefly before we vote on these, I don't disagree with my Liberal colleague that this bill is fundamentally flawed. However, that having been said, when there are sections of the bill that set out basic protections for tenants who live in care homes, we find it necessary to support those sections, despite the fact that we are opposed to the whole structure of this new piece of legislation and fundamentally opposed to some of the basic premises that allow, in the broad picture, landlords to evict tenants in a much faster way and are providing incentive for them to do that.

When we get to particular sections in this part of the act that allow landlords to unilaterally transfer tenants, we are going to be opposed to those and continue to show our strong opposition to those. But I guess we come at it from the perspective of saying that when there are particular pieces in the bill that provide basic protection for tenants, in this case tenants who live in care homes, it's important that those be supported.

The Chair: All those in favour of sections 87, 88, 89 and 90? All those opposed? Those sections have all carried.

We are on to page 109, which is a government-proposed new section 90.1.

Mr Gilchrist: I move that the bill be amended by adding the following section:

"Notice of termination

"90.1 (1) A landlord may, by notice, terminate the tenancy of a tenant in a care home if,

"(a) the rental unit was occupied solely for the purpose of receiving rehabilitative or therapeutic services agreed upon by the tenant and the landlord;

"(b) no other tenant of the care home occupying a rental unit solely for the purpose of receiving rehabilitative or therapeutic services is permitted to live there for longer than two years; and

"(c) the period of tenancy agreed to has expired.

"Period of notice

"(2) The date for termination specified in the notice shall be at least the number of days after the date the notice is given that is set out in section 45 and shall be the day a period of the tenancy ends or, where the tenancy is for a fixed term, the end of the term."

This amendment creates a new eviction ground for rehabilitation and therapy facilities where no one in the building is permitted to stay for a period longer than two years and the period of tenancy agreed to has expired. Under the Landlord and Tenant Act, as amended by the Residents' Rights Act, this ground for eviction is already available. This provision is not included in the current drafting of the Tenant Protection Act and that oversight is addressed by this amendment.

You'll recall we had a number of presentations from drug rehabilitation and mental health rehabilitation facilities across the province, as well as women's shelters, that asked that this provision be included in the Tenant Protection Act. They argued the provision allows them to better ensure that accommodation is directed to those requiring residency in their centres.

Mr Duncan: We understand the need to look at this issue very carefully, and I can tell you, as somebody who was for seven years the administrator of an alcohol and drug recovery facility that was involved in the provision of residential services, not only to people who recently were trying to get sober and straight but also people who required longer-term care, it is important that those resources be directed where they are needed the most, particularly in an era when government is cutting back, for whatever reason, politics aside. But again this comes to a fundamental flaw in this section of the bill: that care decisions ought not to be based on issues involving tenancy.

It's not an easy question to address and it has been studied time and time again. We're not arguing that there be another study. We're arguing that in the issues around care homes, whether they be lodging homes, alcohol and drug recovery programs, homes for people who are challenged in some way, we believe that you have to look at the broader context of care, not strictly from the perspective of a landlord and tenant relationship, and we believe that requires separate legislation.

1100

This gives yet another ground for eviction. I would imagine the government will deal by regulation with some of the more fundamental questions that come out of these issues, but the way this is worded, as the parliamentary assistant said, you are providing another means of evic-

tion. The parliamentary assistant is quite correct. Organizations did ask for that, no question about it. If we were dealing with this in the context of not only the landlord and tenant relationship involved between a care provider and a resident or a client or a patient, however you define it, but in the broader context, and could have a fuller discussion, looking not only at the landlord and tenant aspects but at the health and social service aspects of the questions, we might be able to support it.

The fact that we're dealing with this in the context strictly of a landlord and tenant relationship does not, in our view, serve either the care providers or the people in those care homes. I should tell you, when you review past studies and reports, that the question of separating landlord and tenant issues from health care issues, social service issues, is fundamental; it's at the root of many of the recommendations, for instance, that were contained in Professor Lightman's report.

I think the government is making a mistake and missing an opportunity in not dealing with these issues in the broader context.

Mr Sergio: Just for clarification, if the parliamentary assistant can answer: 91(a) and (b), what would happen at the end of the two years if there is no other place one of those tenants can go? If there are no other agencies, no other hospital beds, no other accommodations, where would patients go?

Mr Gilchrist: You will recall, Mr Sergio, that one of the conditions about eviction is that mandatory mediation is one of the provisions we afford under this act. So there would be an opportunity for the tribunal to ensure that there had been a full discussion, that the landlord and tenant had both participated in an attempt to resolve that situation. At the end of the day it would presumably be referred by one party or the other to the tribunal to rule, and the tribunal would judge on the merits.

If they thought it fell into the category covered by section 93, then they would apply the test of making sure appropriate alternative facilities were available. If on the other hand it was somebody who had just plain abused the trust of a women's shelter that had said, "Fine, you can stay here for up to six months or a year or two years" or whatever the time period is, and the person overstayed, or if somebody goes into a rehab centre and has just decided that for reasons that may not be related — they may be, but maybe not as well — to the actual reason they checked themselves in in the first place, they may have just decided it was the most affordable place to live in that town.

So there is any scenario one could posit, but the bottom line is that if there are still genuine health concerns, that would be taken into account by the tribunal. On the other hand, if it's somebody who has simply violated an agreement that was entered into and has violated the tenancy provisions in that facility, then I don't think it's inappropriate for the caregiver or the operator of that rehab centre to be able to say, "Our resources are for those people who need them most," and as Mr Duncan correctly pointed out, they should have the right to allocate those resources as they see fit.

Mr Sergio: I'll put two questions. We're not talking about occupants, tenants who are abusing the system or staying in there because it's the most affordable rent. We're talking about, or at least I'm addressing, the issues of tenants who at the end of two years are not fully recuperated and still need medical care. We are not talking about people abusing the system or staying in there because it's the most affordable place. We are talking about people still in need of that particular care. If they are bounced off because now the rent is going up, where are those tenants going to go: 250 miles north, east, west? That's the question.

Nowhere in the legislation is this particular situation addressed. We are now saying, "At the end of two years, good or bad, abusing it or not, you're gone." Why should we have to send a particular tenant who is in dire need of care to a tribunal when we know medically — there are reports and whatever — that this should not go to a tribunal, that this is the case of a tenant who should be allowed to stay in there for another six months, another year, until conditions prevail for that tenant to go? There's nothing in this legislation about that.

Again I have to go back to what Mr Duncan was saying, that it's a situation where we have to address this more in depth. It's using the sledgehammer and giving the power to the landlord to say: "You know what? I don't like you in this house any more. You've got to go."

There's not even protection for somebody who needs extreme care, if you'll please understand.

The Chair: Are you asking a question?

Mr Sergio: Yes.

Mr Gilchrist: Mr Sergio, this section is in addition to 90; it is a new section. It says there will be a different consideration if you go into a transitional facility that has as one of its rules, before you ever get there, that nobody gets to stay for more than two years. So nobody gets checked into a facility like that in the circumstance you're describing. If someone is in that dire a situation, they don't get checked into a transitional facility. You don't go to a women's shelter and argue, "I have to be here for the rest of my life."

This is quite reasonable for women's shelters and other rehabilitation centres that are dealing with specific ailments. They know the recuperation time, and in the case of women's shelters they have the ability to judge within their community what an appropriate time period is to allow women to look for alternative accommodation, to resolve whatever legal matters there are. It's shelters and rehab centres that came to us in the committee hearings and said, "Do not allow somebody to abuse our trust and break our rules."

The way the bill was written, somebody could simply say: "I'm not moving. I'm going to use the other definitions of care home and I'm going to stay here forever." But we're not talking about care homes in general, Mr Sergio. Section 90 stands the way it's already written. This is a new section, 90.1, and it merely says that when you go into a facility, if they have as one of their rules that nobody gets to stay for more than two years, then we don't

think it's appropriate to abuse that trust or abuse the rules and take resources away. If it's the case of a women's shelter, that room should go to somebody who has just left an abusive situation and needs accommodation today. If you've been there for two years already and the shelter said as one of their rules that two years is more than enough time to order your affairs and to find alternative accommodation, we don't think it's inappropriate for the shelter to be able to enforce those rules. This is not long-term care; this is purely and simply to deal with the different issues in a transitional shelter.

Mr Sergio: I thank the assistant for his effort in explaining. I'm not satisfied, but that's okay.

Mr Silipo: I think that on the one hand Mr Gilchrist makes the case quite clear for the need for this kind of provision, but on the other it creates, I think, a problem in this magical two years. I know the debate that has gone on and continues to go on around this issue, but I and our caucus come down more on the side of saying that there's nothing magical about the two-year period. There may very well be instances where more time than that is needed and that should be dealt with in the individual cases. That's something this particular amendment would prevent from happening. That is why we're going to be opposed to this.

I should just add again that the basic premise that we come at this with is that in care homes, just like in other areas, we are dealing with a person's home, and whether that's temporary or long-term is up to the individual situation. While they are there, people need to have the basic protections as tenants. I guess on this point we differ, and that's fine. We differ even from the way our Liberal colleagues choose to approach this. I heard Mr Duncan say earlier that they don't see the issue of care homes as a landlord and tenant issue or concern or approach. We have a basic difference on that point. So for those two reasons, Chair, I won't be supporting this particular amendment.

1110

Mr Gilchrist: Not to go back on my earlier compliments to Mr Silipo, but I would just remind him that throughout the hearings we heard groups ask for time periods such as six months and one year. In fact we thought two years not only went well beyond what most of the groups had asked for, but I would remind him that it is precisely the time period your government put in under the Residents Rights Act for facilities such as this and for treatment in these exact same circumstances. I certainly respect the right of your caucus to take a different view today, but in the legislation that is in place today you people made it a two-year time period as well.

Mr Duncan: I could support the amendment if we were talking strictly about a women's shelter, for instance, the one you used. But if you go back to the definitions section in your own bill and you look at the definitions of "care home" and "care services," let me put some very simple contextual cases for you. Let's say you have a resident in a lodging home who needs a catheter who has been there for two years. What do you do? Get rid of them. The question was asked rhetorically, "Where do

they go?" Let me tell you where they go. They go to the street.

A good service provider attempts to get a client to function independently and live independently. I urge you, if you haven't already been, to go into your community and to some of the lodging homes that fall into this category. We're not dealing with a residential program for alcoholics that may have a 28-day program where people come in and go out. That's why I say this section has to be viewed in the context of care services, not exclusively in the context of landlord and tenant relationships.

If your definition were different and more restricted, and I checked — you use the words "care home" in this and it goes well beyond the definition of a shelter for battered women, whose intent is to provide a transitional setting. It goes well beyond that and it deals with those people who are the most vulnerable.

I can tell you that there are very simple issues. One there is great debate around is the use of restraints. You're right: In the context of two years that is exactly what these homes said. Frankly, most good providers would have a much shorter time frame than two years.

I urge the government strongly to look at this in the context of your own definition in the act. If you do that, I think it changes the way this section can be used.

Mr Gilchrist: Not to belabour the point, but just to Mr Duncan's last comment: I agree that at the outset of the bill we define what a care home is, but I remind him that right in this very section we further refine and clarify precisely what facilities we are talking about here. This section applies to care homes only if they are occupied solely for the purpose of receiving rehabilitative or therapeutic services. It is not a care home in general. This isn't what happens to a patient in a care home. This is an entire facility. Your comment was, "This doesn't apply to a centre that has a 28-day alcohol recovery." Yes, it does. This is precisely for those groups. It does not cover somebody who needs a catheter in a nursing home.

If you're in a nursing home or lodging home where there is no defined program time, then this section doesn't apply. The original section 90 applies. So everyone in the facility must be covered by that same tenancy time limit or else this section does not apply.

With the greatest respect, I don't think you could find a scenario, whether it's an alcohol or drug recovery program — if everyone in that building is covered by the program, then this section would apply, and we think it is appropriate that the care giver be allowed to allocate their resources to those people. If you've set for example 28 days as the time period, then I don't think it would be appropriate a year later to have that same person in there. I suspect you would be hard-pressed to find a care giver who would disagree with that. The bottom line is that this in no way changes anything else in section 90. This clarifies that only if 100% of the facility is dedicated to rehab or therapy programs with a set time limit, then there is a different treatment for those.

Mr Sergio: I don't want to dwell on it long either. Just two things if you can explain briefly: (1) whether there is

any assessment of the tenant's condition at the end of two years; what if the condition of the tenant has deteriorated instead of improving over those two particular years? Are we saying then, "Sorry, the tenancy agreement is two years and you've got to go regardless"? I don't know the ins and outs of all the legislation, but if that were to be the case, is there an assessment as to the condition of a particular tenant? And if for whatever reasons during the course of the year, 18 months, two years the conditions deteriorated, what then?

Mr Gilchrist: I think it could fall into a number of circumstances, Mr Sergio. First off, we'd have to break it into two different categories. There are programs you can check yourself into and that you pay for privately. I think in those circumstances at the end of the 28 days, if you and the operator of the rehab facility thought there was need for a longer stay, you would negotiate the rate and you would continue that.

That is very different from the circumstance where you're checked into a facility with genuine health concerns that are covered by OHIP. I would think in that circumstance there would not be a scenario where you'd see somebody, when the circumstances deteriorate, merely allowed to go back out on the street. In fact, in all likelihood you'd be talking about a situation now where you would need to move them to a facility that can handle those greater challenges.

I think there are so many scenarios you could put forward, I'd be hard-pressed to cover them all. I would expect that if it's something covered by OHIP, of course the doctor who would be overseeing your treatment would have a responsibility, both professional and practical, to ensure that your care continued appropriately. Again I think that falls outside what the overwhelming majority of people covered by this program would be. As Mr Duncan points out, it would be things like alcohol recovery programs, and in most cases it's something you check yourself into and pay for privately.

Not to dwell on any one here in Ontario and single them out, but if you went into the Betty Ford Clinic, you'd pay for X number of weeks of treatment, and when that's done, I don't think you would argue with me that you don't have a right to stay there any more than you have a right to stay in a hotel or anywhere else. The bottom line is that if it's voluntary, that's something you negotiate. If it's involuntary and covered by OHIP, I would have absolutely every expectation that yes, there would be an assessment and yes, appropriate care would continue.

The Chair: Further debate? All those in favour of the motion? All those opposed? The motion carries.

Shall section 91 carry? Carried.

We are on to a New Democratic Party motion on page 110.

1120

Mr Silipo: I move that subsection 92(1) of the bill be amended by striking out "make reasonable efforts to" in the third line.

The point of this amendment, by taking out those words "make reasonable efforts to," is that it would then put

upon the landlord an obligation to find appropriate alternative accommodation for the tenant, not just to make reasonable efforts, and to ensure that where there is notice given by the landlord of a care home — under section 51, which is the section that deals with demolition, conversion or repairs, you'll recall, it is imperative that the landlord in those circumstances have an obligation to find alternative accommodation for the tenant. Again, we're talking here about people with particular needs and we think that it's reasonable, therefore, to place that obligation upon the landlord as opposed to the wording in the present bill, which simply says "shall make reasonable efforts to." We think there needs to be an outright obligation for the landlord to find alternative accommodation for the tenant.

Mr Duncan: We think it's extremely naïve to believe that even a good landlord with the opportunity — I want to focus on the kinds of folks we're dealing with here. I suspect what's going to happen now in most lodging homes is that there will be automatic two-year agreements. At the end of two years a lodging home guest, who is there and being paid for by welfare — remember that — generally at a rate that is below a sustainable treatment rate, becomes harder to deal with for whatever reason. You've got a fundamental issue: What do you do with that person?

In many cases there's no support of family, or where there is, they're not involved. Agencies and organizations are increasingly being asked to act for individuals because the public guardian has not been able to. Speak to good owners of lodging homes who take in people on welfare and they will tell you that inevitably the amount that is paid through welfare is not enough. I suspect they're probably accurate. These people wind up on the street. They wind up not only without proper care, but throughout this part of the bill they wind up with less protection than they had before.

I'm being charitable. I don't believe that any member of this government wants that. I don't think so. I honestly believe that you want to find good protection. Obviously we will differ on how that happens, but I won't ascribe to you mean-spiritedness. I am trying to suggest, however, that you're not going to achieve what you want to achieve through this.

You have a very serious problem in this society. It's a problem we've all been too silent on. Again I urge you as strongly as I can to try to come to terms with this. No landlord is going to be able to find alternative accommodation. I know what the government is saying when it says "reasonable effort" — anybody who's been out there knows — and the bad landlord will want to get rid of that tenant — I don't like to use the word "tenant"; "patient" and "client" are probably better terms — because of the cost. The provision of human service is extremely expensive, and in the era of limited welfare payments, which most of these people collect, care homes won't take those people in. They have others who can afford to pay a full rate or what have you.

So if we don't deal with these issues in the broader context, I fear we're just muddying something up worse

than it has been all the way along and I believe that every member around this table in all three political parties wants to address this in a substantive fashion.

Mr Silipo: I don't necessarily disagree with the overall point Mr Duncan is making, but I would remind him that our amendment deals with situations in which the landlord is seeking to evict, not situations in which the landlord is deciding to take in. I share his concerns with respect to landlords deciding to take in tenants in this area. But presumably the landlord he was describing would know, upon taking the tenant in, what moneys the tenant would be able to pay. Obviously, under the other provisions of the bill, the landlord would now know, as he and I both objected to, whether a person is on social assistance and what kind of income etc.

This is a case, however, where the landlord is seeking to end the tenancy agreement because of wanting to convert or demolish the premises. We think in that case there needs to be an absolute obligation upon the landlord to find an alternative accommodation for the tenant rather than simply make reasonable efforts.

Mr Gilchrist: This is getting downright scary. I happen to agree with a lot of what Mr Silipo has said and I too will remind Mr Duncan that this section refers back to only those circumstances where a landlord either intends to demolish the building — and that in all likelihood would be a function of its age or an order from the municipality that it's no longer safe; most people don't demolish perfectly good buildings, so I think it's a safe assumption that it will be more likely older and less serviceable buildings — or he converts it to a purpose other than residential — it's not too likely you would convert a residential building to an office building, but it could happen — or he does repairs or renovations that are so extensive that you have to move people out in many cases to make fire and other health and safety improvements.

If it's the first two circumstances, demolition or conversion, tenants are hardly left high and dry. First off, they're given three months' rent or placement in other facilities, in other residences. So the landlord has a three-month rent inducement to make those reasonable efforts. That will certainly, multiplied by the number of units in the building, give any landlord pause to consider that it is quite appropriate for them to make the effort to find alternative accommodations. On the other hand, if it's simply for repairs and renovations, then they only have to find a short-term alternative accommodation, because they have a right of first refusal to move back into that unit at the existing rent.

We're saying that care homes should not be treated like other buildings in the marketplace. If a building is being demolished, we have to recognize that fact and we have to deal with the people who are in it. We think that section 51 of the act makes it very clear that the landlord has a financial responsibility to help relocate those tenants either in the short term or, if the building is being demolished, in the long term.

While I know you have other causes for concern in the whole issue of care homes in general, I think section 51,

which is subject to the amendment we're debating right now, does afford the appropriate protections for any tenant.

Mr Duncan: I remind the committee members of the presentation we had from Legal Assistance of Windsor the day we were there. Mr Silipo wasn't there and wouldn't be aware of this. I'll refer to Dana Manor, which is being converted to a hotel, because it's right behind the casino. When we were there we had testimony from the lawyer from Legal Assistance of Windsor that alternative accommodation had not been found for the tenants.

I'll say quite publicly, and differ with Legal Assistance of Windsor, that in my view the landlord was making reasonable efforts. That I think points out why this whole part of the bill, part IV — and I certainly agree with what the NDP is attempting to achieve with this, but we had a presentation that very day in Windsor about Dana Manor, most of whose clients are paid for by the city of Windsor social services department. They are losing their home because the home is being converted to a hotel for the casino.

This Tory bill certainly leaves those people much more vulnerable. The NDP amendment will certainly, if it were realistic — but when all lodging homes in the city of Windsor are booked full, if you're not going to allow them to convert it, take out that section of the bill, section 51. That's how I read the sections taken together. I thought that testimony was quite compelling. Again, I don't believe it's the government's intention, but I think these issues cannot be dealt with, and we've been told time and again by previous studies that you can't deal with these issues independently of one another.

1130

The Chair: Further debate? All those in favour of this motion? All those opposed? The motion fails.

Shall section 92 carry? All those in favour of section 92? All those opposed? Section 92 carries.

Shall section 93 carry? Debate?

Mr Silipo: This is the section of this part that we find most offensive.

The Chair: If I could just correct this, and I apologize, page 111 is a recommendation, not an amendment, so it's out of order. You may continue with the debate.

Mr Silipo: I thought this might have been one of those that would have been replaced with a motion that it be struck out, but we'll deal with that through the vote on it. This is a section we find very troubling, because it allows landlords to apply to the tribunal for an order to transfer the tenant. We think this gets to the heart of providing landlords with powers they shouldn't have.

I note with some interest the attitude that was provided here. Earlier in the summer, in one of the discussions between tenant leaders and Minister Leach's staff, one of his assistants, Anne Dundas, I believe, said words to the effect that when there was a group of people shipped from Toronto to Aylmer, these tenants got shipped to Aylmer under existing laws; maybe they shouldn't have any tenant rights at all. This seems to be very much following in that

vein of saying that people ought to be able to be shipped around when they're in care homes.

We don't think that should exist. The basic premise we come back to is that these are people's homes. They ought to have the basic right to live there. While there may be reasons in various circumstances for landlords to want to evict, those are areas where that should be done according to the law and procedures and safeguards that are given to tenants, not by allowing landlords here additional rights to simply transfer people out as they deem appropriate. That's something we find particularly troubling. That's why we think section 93 is wrong and shouldn't exist in the bill.

Mr Duncan: Even if you agree with the government's rationale for this section, if you look at your objective of providing for faster dispute resolution, a tribunal that can deal with issues quickly, you're now setting up a situation where the tribunal's going to have to deal with medical issues, ethical issues, social issues. I can tell you that there are landlords out there who are very good landlords and provide very good services that wrestle with these questions all the time: Can we provide the level of service this person now requires? I submit to the government that those are not easy determinations.

We have heard testimony related to other parts of the bill around the qualifications of tribunal members. I raised the issue, and it sounds like something very simple, of catheters, of who can put in a catheter. A registered nurse has to. Many of these lodging homes don't have registered nurses. What's the tribunal going to do? There is just a whole range of issues.

I submit respectfully to the government, if it is your intention to provide a dispute resolution mechanism — which is what you have stated, what the minister has said, what the PA has said — that's more efficient and serves the interests of both landlords and tenants, you're doing precisely the opposite, because if a situation arises where somebody requires a higher level of care or a level of care that's not present in the facility or the facility believes it cannot provide, those questions are not often cut and dried.

What about a scenario where you have an elderly husband and wife living in the same facility and the husband requires a greater degree of care? What do you do? I'm not trying to split hairs here. I'm not trying to give you the most bizarre cases. These are cases that are happening. I submit to the government that if your objective is to provide a tribunal and a dispute resolution mechanism that's more fair and efficient both for tenants and landlords — putting aside the differences we have on those issues for a moment, if we can even agree on that, we've said time and again we agree with your intention there — you're not doing that with this.

You're setting up a scenario where tribunal members are going to have to make some pretty sophisticated decisions around health care, social issues and ethical questions. We think this is the wrong place to do it. That's why we recommended pulling Part IV from the bill and dealing

with it separately, dealing in a more complete text with the entire issue of care homes.

I suspect, and I think most thoughtful members know, that this problem is likely going to become bigger in the coming years, certainly before the government has an opportunity, or a subsequent government has the opportunity, to deal with these issues again.

I urge you, please reconsider Part IV. This, to us, is a very offensive section of the bill, for the testimony that's been given. I say to the government members that in terms of your own objective, you won't be meeting that objective.

Mr Gilchrist: I must disagree with the suggestions Mr Duncan has made. First off, we don't see this as being something that will be used an awful lot, but to have no transfer provisions [*failure of sound system*] all landlords, and we're talking care homes by and large here, and have no ability for them to recognize the fact that, with various ailments and as we all age, in many cases our care needs increase.

If your current residence does not have the ability to deliver a particular service, there has to be a means to address that problem: if you move into a facility as an able person, and as you deteriorate it reaches the point where you need 24-hour nursing but you won't move. You talk about the tribunal being faced with challenges. Under the current act, it's a landlord that has to make every one of those decisions you just talked about. What's the landlord supposed to do? Under your scenario, if this provision was not here, in theory the landlord could be required to provide, as a condition of your residency, 24-hour nursing at no cost.

Speaking just for myself, I can't see how anybody would see that as fair. It's not the landlord's fault that you need 24-hour nursing. It may very well be that there will be a demand on the health care system but that's not the issue here.

1140

The reality is, if someone's care needs increase, there has to be a mechanism to ensure those needs are met. If you need to be in a chronic care facility but you're not there today, how could anybody with a conscience suggest that to deprive you — I really think you can phrase it that way because you may not be in a mental state, in some cases, to be able to make that decision on your own or there may be other circumstances. As you say, a husband and wife would like to be together. Unfortunately, there are times when medical requirements demand otherwise.

This makes it very clear in a number of ways. First off, if the landlord fails in any of these requirements, section 5 says the tribunal will dismiss the application. So if the landlord cannot prove, absolutely, positively, that the care can't be delivered, not won't, can't be delivered in his or her facility, then it fails right there.

Second, as to the actual health decisions — we went over this during the committee travels but I'll reiterate it again — the community care access centres, the Ministry of Health will have the lead role in doing the assessments, in making the health decisions. Nothing in this act super-

sedes the legislation that gives the CCACs the power to be the final arbiters of care needs. As you've heard in the House, there is an absolute requirement that care must be available in a community or it will be created once the demand is recognized.

This bill merely says that if there is a circumstance where someone's care needs increase and the landlord cannot provide them, then the landlord has the ability to go to the tribunal and, working with them, find alternative accommodation where care needs can be met. I, for one, don't understand how anyone sees a negative in that because at the end of the day, if the bottom line isn't finding the appropriate care and delivering it to the tenant, in this case — it seems to me all other things are subordinate to that. The bottom line is we've got to make sure they are in the appropriate facilities, and without a transfer provision such as this one, that circumstance cannot be addressed in the current act.

Mr Sergio: This really begs the question to have this section dealt on its own. What is it? Is it 93 or is it 86? We have seen very clearly and forcefully, with all due respect to the parliamentary assistant, in his attempt to explain the puzzle here, that this is an agency giving a particular service. You're going to go in for two years. You know when you're going there and you've got to go. That's what explicitly he has said: At the end of two years, you've got to go. It says here the landlord has just to try and make a reasonable attempt to find another accommodation. Well, good luck.

What is it? Is it 93 or is it 86? Under 86, we see that this particular type of service is two years, no more, no less; hopefully less. If you require further assistance, goodbye, Charlie, you're gone. You're on your own. In 93, we are giving the landlord the power to either transfer or move. If under 86 that particular occupant has got to go, why are we giving the landlord the power to go to a tribunal? Again, we ask some of the previous questions.

I know what the government is trying to do, but it's not being addressed properly in this particular section. It's not complete. The puzzle doesn't have all the parts. Unfortunately, the consequences are being suffered by the occupants, who have no other alternative. We have heard from the parliamentary assistant, "Oh yes, we'll see assessment and stuff like that," and then we see that under section 86 there is no such thing. It is an agreement, a tenancy agreement. That's all it is, and you know very well that if you feel better or you feel worse, "You took that upon yourself, Mr Tenant or Mr Occupant, so you've got to go."

In plain words, that's the way it is. When I now see another section here, that regardless of those sections in 86 here, the landlord again has been given the extra, unnecessary power, and unfair I should say, to go to a tribunal regardless, and the power to even transfer, which means if you find a particular situation, that maybe one of the tenants is disturbing some other tenants, or they don't like them, or it's taking too much time, it's taking too much care, whatever, and the landlord says, "We want this guy

out, this person out of here," we are giving them the power.

You know what happens when you're trying to assess a particular situation and stuff like that. I don't have to tell you. I think this is practically discriminatory against many occupants of this particular type of user.

No explanation will suffice, but I feel totally uncomfortable with the section here.

Mr Silipo: Mr Gilchrist asked earlier what the negative is that we see in section 93, and essentially it's the ability of a landlord to seek an order transferring a tenant where the needs of the tenant with respect to the care services have changed.

Mr Sergio referred to section 86. I want to go back to section 86 and under subsection (2) remind Mr Gilchrist and government members that part of the written tenancy agreement between the landlord and the tenant in care homes is to provide what's been agreed to with respect to care services and meals and the charges for those services. So Mr Gilchrist shouldn't worry that if section 93 didn't exist, the landlord would be obliged to provide additional services where the needs of the tenant changed.

The tenant would only be entitled to those care services that are stipulated in the written agreement. A tenant couldn't come along and say, "Because my needs have changed, Landlord, you have to provide those services." They could amend the agreement. Presumably, if the landlord is able to provide and is willing to provide those services, then that would happen. But if the landlord cannot, the tenant then has the choice of remaining in the care home and continuing to receive those services that have been agreed to with the landlord, and presumably be able to try and get those other services from elsewhere, if they were able to. But they have the choice. They would not be able to place any additional requirements upon the landlord, but on the other hand, they would have the safety of knowing that it's them and not the landlord who decides if and when they should move out of the care home.

That's the basic problem. Others have referred to the situation of two people who might be married, and yes, that's a situation where it's important. In fact, it might in the tenant's view be more important that they be in the same building, in the same place, in the same apartment perhaps, depending on the relative care, the needs of the two individuals, than that one be moved to another apartment. But the bottom line is it's a decision for them, and that's just one example that could apply in cases where we have single tenants.

But the point is that it's the tenant who should be making the decision, or the people responsible for the care of the tenant, and not the landlord. That's why we find section 93 troublesome and that's why we believe it should be taken out. But we also make the point that in taking it out, you're not placing any additional, undue obligations upon the landlord. The landlord would still be protected in so far as they would only be obliged to provide those services that they had already contracted with the tenant to provide.

I just want to finish my comments by just asking one question: If, as it seems, the government is intent on proceeding to have this section in the bill, I want to go back to something Mr Duncan addressed, with which I also agree, and that is the issue of now having to have people among the tribunal members with some understanding of these concerns, if they are going to be called upon, albeit we all hope in not too many instances, but they will be called upon if this section is going to exist, to make decisions about questions of levels of care. I'd just like to ask Mr Gilchrist what attention is going to be paid to this issue in appointing the members of the tribunal.

Presumably, if you look outside this area of the act, you would be looking for people with certain skills in terms of being able to make judgements, to make decisions, to understand, for example, the particular way of weighing what is appropriate in terms of increases in rent or not. Here you are calling for some assessment of what is an adequate level of care. I think it is therefore incumbent that there also be some expertise on that among the tribunal members. It's obviously a bit of a rhetorical point, but it is also a real question to Mr Gilchrist in terms of what the government is going to do to ensure you have people on the tribunal who are able to provide this kind of expertise.

1150

Mr Gilchrist: More than being concerned about the background of the individuals on the tribunal would be making sure the appropriate resources are available to the tribunal. I hardly have to tell you that even sitting in this room as we are now, we have legal counsel, we have any number of other staff people who are here to advise us and assist us in our deliberations. I think the tribunal would operate in exactly the same way. As I mentioned earlier, the community care access centres will have a lead role in ensuring the identification and assisting in the relocation where appropriate, and giving that feedback to the tribunal.

I would be far more concerned, and I will certainly give you this undertaking, that the tribunal will have the resources necessary to appropriately assess every case that's brought before it. In those cases that deal with section 93, the resources would clearly have to be of a medical nature. In all our discussions to date, in terms of how this will function once the bill is passed, I've included consideration of the fact that there will have to be coordination between the tribunal and the CCACs in a particular community to ensure that there is just no chance that, based on a lack of expertise or lack of awareness of health care in general, the tribunal is going to make ill-considered moves. I will certainly give you that undertaking.

The Chair: The Chair has a question to either Mr Silipo or Mr Gilchrist, and that is, with respect to this issue, the care home in its wisdom, rightly or wrongly, decides that it can no longer care for the client or the person who is the tenant. It may be, for example, that they can no longer provide that service because the care home believes that person should be in a chronic facility. The patient or the person who is responsible for that patient

disagrees with that assessment. My question to Mr Silipo, because you seem to be taking opposite sides on this, or to Mr Duncan, is, what would happen in that situation? How is that resolved?

Mr Silipo: I don't profess to be an expert in this area, Chair, but if there is an issue of a change, if what you're saying is that there's a change in the level of care a tenant needs, then that's an issue that has to be dealt with, in our view, first of all vis-à-vis what does the tenancy agreement say? Presumably what you're saying is that's outside of what's already been contracted between the tenant and the landlord with respect to what the landlord is obliged to provide, and with respect to this law I think the question that has to be first asked is, what is the obligation then upon the landlord? Is there an obligation to provide additional care?

I think the test of that would be that it should be within the range of care the landlord is equipped to provide. If the level of care that's provided clearly falls outside of that sphere, and more importantly if it falls outside of what's been contracted — you've got to go back, as I understand it, to what's in the agreement, because the agreement sets out what's been contracted — then I think you've got an issue there to be dealt with. But it doesn't affect, and this is the point we're making, it shouldn't affect the right of the tenant to continue to live there.

The Chair: The reason I ask that question, Mr Silipo, and others may wish to comment, is that I could foresee a situation where the care giver, the landlord, and the patient or the client or the tenant disagree. The landlord for liability purposes says, "I can no longer provide this service, the service we originally contracted for."

Mr Silipo: That's a different issue.

The Chair: Well, that's what I'm raising.

Mr Silipo: That's not what section 93 affects. Section 93 is about where there is a change in the level of care required by —

The Chair: That's right. That's exactly it. The care needs can no longer be provided. In section 93 the tenant no longer requires the level of care provided by the landlord; well, it needs other care. My question is, how do we solve this dispute? However, perhaps it's inappropriate for me to even be asking questions. Mr Duncan.

Mr Duncan: That is the whole point of why we have concerns about this whole part of the bill. Those decisions are being made all the time today. It may be with the individual involved. It may be with the substitute for the person involved. I raised the issue of the catheters, an experience I had. I sat on the board of a municipal non-profit home for the aged, and in the old days — even to this day — those homes were not licensed for that type of nursing service.

The point is that the tribunal is contemplated to be dealing with landlord and tenant issues and these issues go far beyond that. I do not agree with those who say that this consideration should not be dealt with. Clearly it has to be. The problem, as we see it, is that you're dealing with it as part of a tenancy issue as opposed to a care issue. You are setting up a tribunal and the community care access

centres, respectfully, will not have the resources, in our view, to deal with these. Certainly they don't today. We think they ought to be dealt with separately. Subsection 86(2) provides for a contractual arrangement. Presumably that contract will be tight, and yes, changes can happen.

This bill provides for mediation prior to this kicking in. We don't believe this is the proper place to have that. I don't want to be splitting hairs, but these issues are significant. The final point I want to make is with respect to the parliamentary assistant's comments, and I will refer him to 93: "A landlord may apply to the tribunal for an order transferring a tenant out of a care home and evicting the tenant if...the level of care that the landlord is able to provide when combined with the community-based services provided to the tenant in the care home cannot meet the tenant's care needs." This raises another situation which frankly isn't consistent with what the parliamentary assistant said.

If you are a tenant in a care home and you're getting help from the outside, the landlord can still apply to evict you, even if that protection is there. It's quite clear: "the level of care that the landlord is able to provide when combined with the community-based services...."

It's saying that even if your contractual obligation doesn't meet the need, if the tenant can therefore go out and get the service from whoever else, be it the VON, whatever, he'd evict. That's not right. We don't dispute for one minute, and I said that up front, that there's a need to address these issues and we think it has become more acute as time goes on. The law is very fuzzy right now. Anybody who deals in it knows that. The question becomes the appropriate mechanism and where you deal with it. We believe this is tied to the proper mechanism or the right way to go about it. The question of where a person lives has got to be fundamental to the whole equation. Here it's not.

Mr Gilchrist: I'll be brief. Chair, first off the answer to your question is, in a situation like that the landlord may apply to the tribunal if there has not been the ability, either first with face-to-face negotiations with the tenant, or with mediation. Then the tribunal may have this as another option available to it.

I also have to address Mr Duncan's final point. I don't know whether lawyers are born or whether they are created, it's an interesting psychological question, but to leave out clause 93(2)(a) is really being somewhat disingenuous. There are a myriad of circumstances where even with the community care providers, your current facility could not be deemed to be an appropriate venue. You may very well need to be in a hospital. So to leave out (a), "appropriate alternate accommodation is available" — it has to be read in the same sense.

The bottom line, in answer to your question, Chair, is that if all of those other attempts to find a common ground and to have the tenant move on their own accord fail, then the landlord may apply and the tribunal, only with appropriate medical evidence and the determination that there is appropriate alternate accommodation, could issue an order.

The Chair: Shall section 93 carry? All those in favour of section 93? All those opposed? Section 93 carries.

I believe it would be appropriate to recess these proceedings until 3:30 this afternoon.

The committee recessed from 1201 to 1533.

The Chair: We'll reconvene. We had completed and voted on section 93. Shall sections 94 —

Mr Duncan: I have something to ask the parliamentary assistant. I meant to ask him this morning.

The Chair: Certainly, Mr Duncan. I hope it's on what we're talking about now.

Mr Duncan: Oh, absolutely. It's on the substance of the bill.

The Chair: Well no, not the substance of the bill. I hope it's on the sections that we're dealing with.

Mr Duncan: Oh, absolutely. Which section, I'm sorry?

The Chair: Go ahead.

Mr Duncan: Are you advising Mel Lastman on his position on rent control?

Mr Silipo: That's Mr Gilchrist.

Mr Gilchrist: No, that's Mr Colle. He's manager of Mr Lastman's campaign.

The Chair: Mr Duncan, you have a very concise question, I know.

Mr Duncan: I just asked.

The Chair: That's it. Shall sections 94 to 101 carry? Sections 94 to 101 have carried.

We are on to page 112, a government amendment.

Mr Gilchrist: I move that the bill be amended by adding the following section:

"Assignment

"101.1 A landlord may not refuse consent to the assignment of a site for a mobile home on a ground set out in clause 17(2)(b) or 17(3)(c) if the potential assignee has purchased or has entered into an agreement to purchase the mobile home on the site."

This is a new provision to eliminate a landlord's right to refuse the assignment of tenancy in a mobile home park or land-lease community where the potential assignee has purchased or will be purchasing the home on the leased lot.

The Chair: Debate? All those in favour of the motion? Opposed? The motion carries.

Shall section 102 carry? Section 102 is carried.

Shall section 103 carry? Section 103 is carried.

We are on to page 113, a government motion to section 104.

Mr Gilchrist: I move that the French version of subsection 104(7) of the bill be amended by inserting after "responsabilité" in the second line "à l'égard de quiconque."

The Chair: All those in favour? Opposed? The motion carries.

Mr Duncan: I'd like to hear him say that again.

Mr Silipo: Put more amendments in French. They might be more amenable to him.

The Chair: Mais oui.

Mr Gilchrist: Now you tell us.

The Chair: Shall section 104, as amended, carry? Section 104, as amended, is carried.

Shall section 105 carry? Section 105 is carried.

Page 114 is a government motion.

Mr Gilchrist: I move that section 106 of the bill be amended by striking out "not be before the end of the period of the tenancy" in the sixth and seventh lines and substituting "be the day a period of the tenancy ends".

It's just a technical amendment clarifying that a notice of termination based on conversion, demolition or repair must take effect the day the fixed-term tenancy ends or, if there is not a fixed term, then the day a period of tenancy ends.

The Chair: Debate? All those in favour of the motion? Opposed? The motion carries.

Shall section 106, as amended, carry? Section 106, as amended, has carried.

We are on to page 115, a government motion.

Mr Gilchrist: I move that section 107 of the bill and the heading immediately preceding it be struck out and the following substituted:

"RULES RELATED TO RENT AND OTHER CHARGES

"New tenant

"107(1) Despite subsection 17(8) and section 116, if a new tenant of a site for a mobile home has purchased or has entered into an agreement to purchase the mobile home located on the site, the landlord may not charge the new tenant a rent that is greater than the last lawful rent charged plus the prescribed amount.

"Same

"(2) If an assignee of a tenant of a site for a mobile home has purchased or has entered into an agreement to purchase the mobile home located on the site, the assignee shall be deemed to be a new tenant for the purposes of subsection (1).

"Exception

"(3) Subsection 128(10) does not apply with respect to a site for a mobile home if there is a new tenancy agreement with respect to the site and the new tenant purchased or has entered into an agreement to purchase the mobile home located on the site."

The reason for this amendment is to clarify the anti-gouging provisions, to make sure they're intended to apply to mobile homes and land-lease homes owned by tenants, not to homes owned by the landlord. The landlord's ability to reset rent on a home he or she owns would not be limited to an amount prescribed by regulation. Subsection 107(2) is a new provision which treats the assignee of a tenancy agreement who has purchased the home or entered into an agreement to purchase a home as a new tenant and allows the landlord to reset the rent for the site by the amount prescribed by regulation. In other words, it gives the assignee the same rights and responsibilities as the original tenant.

The Chair: Debate? All those in favour of the motion? Opposed? The motion carries.

Shall section 107, as amended, carry? Section 107, as amended, carries.

We are on to section 108, page 116.

Mr Gilchrist: I move that section 108 of the bill be amended by adding the following paragraph:

"5. The testing of water or sewage in a mobile home park."

Quite simply, this is an amendment to remit a landlord who charged tenants out-of-pocket expenses incurred for the testing of water or sewage effluent in a mobile home park or land-lease community. A landlord would be allowed to collect this money directly from tenants.

The Chair: Debate? All those in favour? Opposed? This motion is carried.

Shall section 108, as amended, carry? Section 108, as amended, is carried.

Shall sections 109 and 110 carry? Sections 109 and 110 are carried.

We are on to section 111, page 117.

Mr Duncan: I move that subsection 111(2) of the bill be amended by striking out "be" in the first line and substituting "not be more than."

The purpose of this amendment is to clarify that a landlord cannot charge more than first and last month's rent as a deposit.

1540

Mr Gilchrist: Much to the delight, I'm sure, of Mr Duncan, the government will be pleased to support his amendment. We think this in fact does —

Mr Duncan: I want to rethink this amendment.

Mr Gilchrist: Hey, it's not the first one. You're on a roll now. This allows landlords greater flexibility and we think it really is an improvement to the bill, so we applaud your bringing it forward and we will be voting in favour of this amendment.

Mr Silipo: Maybe I'll want to read it again.

The Chair: All those in favour of the motion? Unanimous. The motion has carried.

We still have another Liberal motion.

Mr Duncan: I move that subsection 111(3) of the bill be amended by striking out "after the landlord has received a rent deposit" in the first and second lines and substituting "after a tenant has paid a rent deposit."

This clarifies that no rent increases are allowed after a tenant has paid a deposit.

Mr Gilchrist: Two in a row. The government will be supporting this. We think this is a substitute trigger mechanism for the landlord. It's a fairly technical change and we think it does clarify the issue, so we're pleased to support this one as well.

The Chair: Debate? All those in favour of the motion? Unanimous again. The motion is carried.

We're on to page 119.

Mr Silipo: Better not three.

Mr Tom Froese (St Catharines-Brock): Three in a row and we're out.

Mr Duncan: I move that subsection 111(6) of the bill be amended by striking out "at the rate of 6% per year" at the end and substituting "at the prescribed rate."

This would allow the interest paid by landlords in a rent deposit to be more in tune with the market rate.

Mr Silipo: I will be opposing this amendment. I believe that the present 6% is appropriate, and I hope the government members will continue to support that portion of the bill. Certainly we can get into a long discussion about the ups and downs of the market, but landlords by and large have these deposits for some period of time and they're able to do what they will and can in terms of investing them etc. I think that 6% continues to be reasonable and I won't support the Liberal amendment.

Mr Gilchrist: Just to prove we listen to both opposition parties, we're going to be agreeing with Mr Silipo on this one and oppose the amendment, quite frankly because, for any year in which the rate may be seen to be too high, there will be another year in which it seems to be too low. It tremendously streamlines accounting for both the landlords and the tenants. They can calculate that the rate of interest they received is a set amount, and that, I think, should be seen in the overall context of the fact that most landlords are small operators with fewer than 10 units, and to put in something that requires them to track something year by year on what could be a 10- or 20-year tenancy would be just a staggering workload. At the end of the day, for any year, as I say, that there might be an advantage, there will be another year where there's a disadvantage.

The Chair: Further debate? All those in favour? Opposed? The motion is defeated.

Mr Duncan on page 120.

Mr Duncan: I move that section 111 of the bill be amended by adding the following subsection:

"Same

"(6.1) Where the landlord has failed to make the payment required by subsection (6) when it comes due, the tenant may deduct the amount of the payment from a subsequent rent payment."

This would allow tenants to deduct any interest payments not made by landlords directly from their rent.

Mr Gilchrist: Well, having demonstrated we support the Liberals and then support the NDP, we want it duly noted that they have each presented an identical amendment and this time we'll be supporting both of them. The government will be voting in favour of this. This would allow the tenant to deduct the interest payment on the last month's rent from the rent where the landlord has failed to make that annual payment himself, and in fact it's something that is quite appropriate, so we're pleased to support this amendment. You have three out of four.

Mr Duncan: Just given the good turn, I wonder if we could review some sections we've already done.

The Chair: As you can guess, Mr Silipo, the next motion will be out of order. I don't know whether you had any other comments to make.

Mr Silipo: No, just that I'm glad that the spirit of it was supported and the letter of it as presented by a Liberal amendment.

The Chair: Further debate? All those in favour? Opposed? This motion is carried.

Page 121 is out of order.

Shall section 111, as amended, carry? Section 111, as amended, is carried.

Shall section 112 carry? Section 112 is carried.

We're on to page 122.

Mr Gilchrist: I move that the bill be amended by adding the following section:

"Receipt for payment

"112.1 A landlord shall provide free of charge to a tenant, upon the tenant's request, a receipt for the payment of any rent, rent deposit, arrears of rent or any other amount paid to the landlord."

As we mentioned on our first day of clause-by-clause, the other two parties had, back I think it was around section 36, proposed a similar amendment which would have dealt with just a receipt for rent. The reason we opposed that one, as we told you last week, was that ours also includes the ability to demand a receipt for rent deposits, arrears of rent or any other payment for any special charges or services done by the landlord.

The Chair: Debate? All those in favour? The motion is carried.

We are on to page 123.

Mr Duncan: I move that subsection 113(2) of the bill be struck out and the following substituted:

"Discounted rent

"(2) The only discounted rent that a landlord may offer is a period of one or more months where no rent is charged."

This comes back to the issue that we discussed the last day. It comes back to our fundamental difference of opinion with respect to the issue of vacancy decontrol and the landlord's ability to set the new rent once a vacancy has occurred. Our concern is that a landlord, acting as a rational economic actor, would merely set the new rent at an amount way above the market and discount back the amount to whatever the market will bear, which will, in effect, allow the landlord to be exempted from the recontrol that some landlords have referred to and what the government has referred to as the protections that are afforded once a vacant unit has become reoccupied.

The Chair: Debate? All those in favour of the motion? Opposed? The motion is defeated.

We are on to replacement page 124.

Mr Silipo: I move that subsection 113(2) of the bill be struck out.

The rationale for this amendment is essentially the same as the one that Mr Duncan provided for the previous one. We certainly supported that amendment. Given that that didn't pass, we think that this subsection shouldn't exist.

The Chair: Debate? All those in favour? Opposed? The motion is defeated.

Page 125, a government motion.

Mr Gilchrist: I move that section 113 of the bill be amended by adding the following subsection:

"Lawful rent where higher rent for first rental period

"(3) Where the rent a landlord charges for the first rental period of a tenancy is greater than the rent the landlord charges for subsequent rental periods, the lawful

rent shall be calculated in accordance with the prescribed rules."

The reason for this amendment is that it authorizes the development of regulations to determine the calculation of lawful rent in situations where the landlord charges the tenant a higher rent for the first month of the tenancy than is charged for the remainder of the tenancy, ie, premiums.

1550

The Chair: Debate? Shall this motion carry? Opposed? I'll try it again. All those in favour? Opposed? The motion fails. No? The motion carries. We're going to try that again, just so we're clear of the wreckage. All those in favour of the motion? Opposed? The motion carries.

Shall section 113, as amended, carry? All those in favour? Opposed? The section, as amended, carries.

Shall sections 114 and 115 carry? Sections 114 and 115 are carried.

We have dealt with, I believe, section 116.

We are on to page 130, a government motion.

Mr Gilchrist: I move that subsection 117(4) of the bill be amended by striking out "or 77" in the second line of clause (b), by adding "and" at the end of clause (b) and by adding the following clause:

"(c) neither the landlord nor the tenant applies to the tribunal under section 77 within 60 days after the end of the subtenancy for an order evicting the subtenant."

The rationale: This is an amendment that provides consistency with section 77 of the act by making reference to a landlord or tenant applying for an order to evict an overholding subtenant within 60 days after the end of the subtenancy. It previously made reference to 60 days after the landlord discovering the unauthorized occupancy.

The Chair: Debate? All those in favour of the motion? Opposed? The motion carries.

Shall section 117, as amended, carry? Section 117, as amended, is carried.

Shall section 118 carry? Section 118 is carried.

We're on page 131, a government motion.

Mr Gilchrist: I move that subsection 119(1) of the bill be struck out and the following substituted:

"Notice of rent increase required

"(1) A landlord shall not increase the rent charged to a tenant for a rental unit without first giving the tenant at least 90 days' written notice of the landlord's intention to do so.

"Same

"(1.1) Subsection (1) applies even if the rent charged is increased in accordance with an order under section 128."

This is an amendment to clarify that the 90-day notice a landlord must provide before a rent increase can be charged must be in writing. This amendment also clarifies that the written notice is required when the rent is increased by an order granting an above-guideline rent increase. So even when an order is granted, there must be a written 90-day notice.

The Chair: Debate? Shall the motion carry? All those in favour of the motion? The motion has carried.

Shall section 119, as amended, carry? Section 119, as amended, is carried.

Shall section 120 carry? Section 120 is carried.

Page 132 is a Liberal motion.

Mr Duncan: I move that paragraph 3 of subsection 121(2) of the bill be amended by striking out "2 per cent" in the last line and substituting "1 per cent".

This again refers back to the guideline allowing the rent increases calculated at operating cost plus 2%. We believe that it should be operating plus 1%.

The Chair: Debate? All those in favour of this motion? Opposed? The motion fails.

Mr Silipo, I think we just voted on yours, so that's out of order.

We're on to page 134, a government motion.

Mr Gilchrist: I move that subsection 121(4) of the bill be struck out and the following substituted:

"Guideline for 1997, 1998

"(4) The guideline for the calendar year 1997 and for the calendar year 1998 shall be the rent control guideline for each of those years established under the Rent Control Act, 1992."

The reason for this amendment is it authorizes the calculation of the 1998 rent control guideline under the existing Rent Control Act, 1992. The guideline was announced on July 17, 1997, published in the Ontario Gazette on August 2, 1997, and has been set at 3%.

The Chair: Debate? All those in favour? Opposed? The motion is carried.

The Chair: Shall section 121, as amended, carry? All those in favour of section 121, as amended? All those opposed? Section 121, as amended, is carried.

Mr Duncan, page 135.

Mr Duncan: I move that subsection 122(1) of the bill be struck out and the following substituted:

"Agreement

"(1) A landlord and a tenant may agree to increase the rent charged to the tenant for a rental unit above the guideline if the landlord has carried out or undertakes to carry out a specified capital expenditure in exchange for the rent increase."

This is the whole notion around what a landlord and tenant can negotiate outside of the purview of the act. We believe that something intangible like services, which the act contemplates now, is open to far too much interpretation and, we believe, will potentially unfairly expose tenants to increases above the guideline. We believe, however, that if you can have something hard, a capital thing, a new floor or what have you, where that can be negotiated that flexibility should be there for landlords and tenants.

Mr Silipo: I won't be supporting this amendment. As I think I've stated on a couple of other occasions when similar proposals were made, we believe that both the landlord and the tenant need to stay within the landlord and tenant legislation and not be able to contract outside of that. We think that provides both assurance and protection for both landlords and tenants, and that's an important principle we should adhere to.

The Chair: Further debate? All those in favour of the motion? Opposed? The motion fails.

Page 136, Mr Duncan.

Mr Duncan: I move that section 122 of the bill be amended by adding the following subsection:

"Exception

"(3.1) Subsection (3) does not apply if the landlord and the tenant jointly appear at the office of the tribunal to file their agreement in person and answer questions posed by an officer of the tribunal as to the consensual nature of the agreement and that officer certifies the agreement and provides a copy to both parties."

Again we are recognizing, we believe, particularly in the area of capital, rent increases above the guidelines if all parties agree. We believe presenting this particular amendment allows the spirit of rent control to be maintained and we believe it allows an opportunity for special arrangements to be made that are — I don't like to use the word "supervised" — overseen or at least approved by the tribunal. If somebody wants something special done to their apartment in discussions with the landlord, it will allow the tribunal to approve that.

The Chair: Further debate? All those in favour of this motion? Opposed? This motion fails.

Mr Silipo, page 137 is out of order.

Shall section 122 carry? All those in favour of section 122? Opposed? The section carries.

Shall sections 123 to 126 carry? Sections 123 to 126 have carried.

The next motion is Mr Silipo on page 138.

Mr Silipo: I move that the bill be amended by adding the following section:

"Parking space

"126.1 Where a tenant no longer requires the use of a parking space, the tenant may, upon 60 days' notice to the landlord, terminate any agreement for use of the parking space and, after the termination date, the tenant is no longer liable to pay for the use of the parking space."

I think that is self-explanatory.

The Chair: Further debate? All those in favour of this motion? Opposed? This motion fails.

We are on to section 127, page 139.

Mr Gilchrist: I move that section 127 of the bill be struck out and the following substituted:

"Increase to maximum rent

"127(1) A landlord may increase the rent charged to a tenant of a rental unit up to the maximum rent determined under subsection (2) if the tenant of the rental unit has been a tenant of the rental unit since the day before this section is proclaimed in force.

"Maximum rent

"(2) For the purposes of subsection (1), the maximum rent is the amount determined by,

"(a) determining the maximum rent under the Rent Control Act, 1992 on the day before this section was proclaimed in force;

"(b) adding to that amount any increases in maximum rent resulting from an order issued under section 21 of the

Rent Control Act, 1992 or a notice of carryforward issued under section 22 of that Act; and

“(c) subtracting from that amount the amount of any decreases in maximum rent ordered under section 28 or 33 of the Rent Control Act, 1992.

“REDUCTION OF RENT — MUNICIPAL TAXES REDUCED

“Municipal taxes reduced

“127.1(1) If the municipal property tax for a residential complex is reduced by more than the prescribed percentage, the lawful rent for each of the rental units in the complex is reduced in accordance with the prescribed rules.

“Effective date

“(2) The rent reduction shall take effect on the prescribed date, whether or not notice has been given under subsection (3).

“Notice

“(3) If, for a residential complex with at least the prescribed number of rental units, the rents that the tenants are required to pay are reduced under subsection (1), the local municipality shall, within the prescribed period and by the prescribed method of service, notify the landlord and all of the tenants of the residential complex of that fact.

“Same

“(4) The notice shall be in writing in a form approved by the tribunal and shall,

“(a) inform the tenants that their rent is reduced;

“(b) set out the percentage by which their rent is reduced and the date the reduction takes effect;

“(c) inform the tenants that if the rent is not reduced in accordance with the notice they may apply to the tribunal under section 134 for the return of money illegally collected and;

“(d) advise the landlord and the tenants of their rights to apply for an order under section 127.2.

“Same

“(5) The local municipality shall give a copy of a notice under this section to the tribunal or to the ministry on request.

“Application for variation

“127.2 (1) A landlord or a tenant may apply to the tribunal under the prescribed circumstances for an order varying the amount by which the rent charge is to be reduced under section 127.1.

“Same

“(2) An application under subsection (1) must be made within the prescribed time.

“Determination and order

“(3) The tribunal shall determine an application under this section in accordance with the prescribed rules and shall issue an order setting out the percentage of the rent reduction.

“Same

“(4) An order under this section shall take effect on the effective date determined under subsection 127.1(2).

1600

The reason for this amendment: Section 127 has been amended to clarify that the landlord can only increase the rent charge up to the maximum rent if the current tenant occupied the unit prior to this section of the Tenant Protection Act being proclaimed. If the tenant occupies the rental unit on or after the date this provision is proclaimed the maximum rent established under the Rent Control Act for the unit no longer applies.

Sections 127.1 and 127.2 have been provided to authorize automatic rent reductions due to tax reductions greater than the prescribed amount. Local municipalities would be required to notify tenants and landlords of any rent reductions, which would be calculated according to the prescribed rules. The landlord or tenant would be entitled to apply to the tribunal to vary the rent reduction calculations, but an application would not delay the automatic rent reduction.

We believe this goes a long way to clarifying the issue that was raised at almost every day's hearings, people who suggested somehow there was not a certainty that tax decreases would show up in the tenant's pocket. This section now makes it mandatory for the municipality to notify every tenant in the affected units and the landlord as well and to point out to them very specifically how much the rent will be reduced. We think nothing could be clearer and we'll guarantee every one of those affected tenants will see the benefits of the property tax reduction.

Mr Duncan: Well, we —

Mr Froese: Agree.

Mr Duncan: No, because you forgot to amend subsection 133(2) when you go to a tribunal, and the word “may” is used in there instead of the word “shall.” We think if the government was serious they would have looked at 133(2). We've provided an amendment to that section and perhaps the government will consider adopting that particular amendment. If you read 133(2), you'll find that it deals with this issue as well and you will find that the wording is quite distinct when it gives direction to the tribunal. It uses the word “may” instead of the word “shall,” which means that a tribunal doesn't have to order that a tax decrease be passed on.

That being said, this is all a red herring, because we also know that property taxes in every municipality in Ontario will go up in 1998. You may guffaw now. You are not listening to your own mayors. You are not listening to your backbenchers, like Mr Skarica, who said he would not participate in these lies. I don't know if that was his word — perhaps I'm quoting him out of context — but the point remains that this government is raising property taxes across Ontario. They will go up substantially, anywhere from 5% to 10%. You will attempt to blame municipalities but the people of the province understand full well what is going on. So this is really an empty exercise, section 127, and even if you believe that this would achieve what you hope it will achieve, if you were serious about it, you would have amended 133(2) as well, to direct the tribunal to order that where there is a dispute property tax decreases get passed on to tenants.

For those two reasons, one, it's a red herring because property taxes will go up — they are going to go up for homeowners across the province, they are going to go up for tenants — and, two, if you were serious about it you would have amended section 133(2) as well to direct the tribunal to order tax decreases to be passed on to tenants, we don't believe you are sincere in this. We think this is empty political posturing. We believe very firmly that property taxes will go up across this province in 1998 and 1999.

The Chair: Further debate? All those in favour of the motion? Opposed? The motion carries.

Mr Silipo, I believe that the motion on page 141 is out of order.

Shall section 127, as amended, carry? Section 127, as amended, is carried.

Mr. Silipo, page 142.

Mr Silipo: I move that paragraph 1 of subsection 128(1) of the bill be amended by striking out "or utilities or both" in the second and third lines.

The Chair: Further debate? All those in favour of the motion? Opposed? The motion fails.

Page 143.

Mr Duncan: I move that paragraph 128(1) of the bill be amended by inserting after "complex" in the fourth line "or one or more of the rental units in the complex."

This allows landlords to pass on extraordinary increases in the taxes or utility charges on specific units. We think that the landlords put a fairly good case for this particular amendment and it is consistent with other sections of the bill.

The Chair: Debate? All those in favour of this motion? Opposed? This motion fails.

Page 144, which is a government motion.

Mr Gilchrist: I move that subsection 128(1) of the bill be struck out and the following substituted:

"(1) A landlord may apply to the tribunal for an order allowing the rent charged to be increased by more than the guideline for any or all of the rental units in a residential complex in any or all of the following cases:

"1. An extraordinary increase in the cost for municipal taxes and charges or utilities or both for the whole residential complex.

"2. Capital expenditures incurred respecting the residential complex or one or more of the rental units in it.

"3. Operating costs related to security services provided in respect of the residential complex by persons not employed by the landlord."

The amendment in paragraph 3 permits the landlord to apply to the tribunal for an above-guideline rent increase based on increased operating costs related to the provision of security services provided such services are from an outside security firm and therefore eliminates the ability to artifice costs as "security" that might really be related to other things within the landlord's control.

We believe this clarifies that paragraph.

The Chair: Further debate? All those in favour of this motion? Opposed? The motion is carried.

We are on to a replacement page 145, a New Democratic motion.

Mr Silipo: I move that subsection 128(5) of the bill be struck out.

The Chair: Debate? All those in favour of this motion? Opposed? This motion fails.

We are on to a government motion, page 146.

Mr Gilchrist: I move that subsections 128(7) to (9) of the bill be struck out and the following substituted:

"Same

"(7) In making findings in an application under paragraph 2 of subsection (1), the tribunal may disallow a capital expenditure if the tribunal finds the capital expenditure is unreasonable.

"Same

"(7.1) The tribunal shall not make a finding under subsection (7) that a capital expenditure is unreasonable if the capital expenditure,

"(a) is necessary to protect or restore the physical integrity of the residential complex or part of it;

"(b) is necessary to maintain maintenance, health, safety or other housing related standards required by law;

"(c) is necessary to maintain the provision of a plumbing, heating, mechanical, electrical, ventilation or air-conditioning system;

"(d) provides access for persons with disabilities;

"(e) promotes energy or water conservation; or

"(f) maintains or improves the security of the residential complex.

"Limitation

"(8) The tribunal shall not make an order with respect to a rental unit that increases the lawful rent with respect to capital expenditures or operating costs related to security services in an amount that is greater than 4 per cent of the previous lawful rent.

"Same

"(9) If the tribunal determines with respect to a rental unit that an increase in lawful rent of more than 4 per cent of the previous lawful rent is justified with respect to capital expenditures, operating costs related to security services or both, the tribunal shall also order, in accordance with the prescribed rules, increases in rent for the following years in an amount not to exceed in any year 4 per cent of the lawful rent for the previous year, until the total increase has been taken."

The reason for this amendment is that it removes the phrase "of no benefit to tenants" as a ground for disallowing a capital expenditure, and it has established strict criteria to provide a degree of certainty when the tribunal is determining what capital expenditures should not be considered unreasonable.

Subsections 128(8) and (9) are consequential amendments to paragraph 3 of the amendment we've already voted on in subsection 128(1), operating costs related to security services.

Mr Duncan: We feel the amendment proposed to subsection (7) does not benefit tenants and, second, the proposed (7.1) we think illustrates the point we attempted to make when we debated the issue around human rights, that

is, the government is very prepared in the statutes to define "reasonable" here, which in our view benefits the landlord, but in the statute it argued that we ought not clarify the definitions in the human rights issues. So we think this points to what we believe is a fundamental problem with the bill, and that is that it alters the relationship between landlords and tenants in a way that we believe overall prejudices tenants. With all those things in mind, we'll be voting against this particular amendment.

1610

Mr Silipo: I'm also going to be voting against this amendment. We think the provision that's now in the bill, that allows the test to also be whether the capital expenditure is of benefit to tenants, needs to continue to be in the bill, and we're opposed to the government taking that out.

Mr Gilchrist: Just briefly, I would draw to the attention of Mr Silipo that, for example, as it's worded right now, if you don't require wheelchair access, you could probably make a case, and win, that the landlord should not be allowed to put in a ramp to make a building wheelchair accessible, given that would not be of benefit to you, and we don't think that's appropriate. By codifying the requirements — if you look at that list, if you can tell me one thing on there that is not a reasonable standard to measure the capital expenditures against, I would welcome your constructive criticisms, but we think every one of those things accrues to the benefit of the tenants and would allow the tribunal a lot more clarity in approaching this issue.

The Chair: Further debate? All those in favour of this motion? Opposed? This motion carries.

Mr Silipo: I move that subsection 128(10) of the bill be struck out.

The Chair: Debate? All those in favour of the motion? Opposed? The motion fails.

Shall section 128, as amended, carry? Carried.

Shall section 129 carry? Carried.

Mr Gilchrist: I move that the French version of clause 130(1)(b) of the bill be amended by striking out "et" in the fifth line and substituting "ou".

This is an amendment to correct the French translation of the provision.

The Chair: All those in favour of this motion? Carried.

Shall section 130, as amended, carry? Section 130, as amended, is carried.

Mr Gilchrist: I move that section 131 of the bill be struck out and the following substituted:

"Rent deemed lawful

"131(1) Rent charged one or more years earlier shall be deemed to be lawful rent unless an application has been made within one year after the date that amount was first charged and the lawfulness of the rent charged is in issue in the application.

"Increase deemed lawful

"(2) An increase in rent shall be deemed to be lawful unless an application has been made within one year after the date the increase was first charged and the lawfulness of the rent increase is in issue in the application.

"Delayed effect

"(3) Subsections (1) and (2) shall not take effect until the day that is six months after this section is proclaimed in force.

"Section 123 prevails

"(4) Nothing in this section shall be interpreted to deprive a tenant of the right to apply for and get relief in an application under section 123 within the time period set out in that section."

This amendment clarifies that both the rent charged and the rent increase, which is the change — they just said "rent charged" so we've added "rent increase" — are deemed lawful one year after the date the rent amount or increase was first charged unless the tenant has made an application to the tribunal. This ensures consistency with section 123 by confirming that deeming under this section does not interfere with the right of a tenant to apply to the tribunal if the landlord has failed to meet obligations set out in an agreement under that section.

The Chair: Debate? All those in favour of this motion? Opposed? This motion is carried.

Page 151 is out of order. Page 152 is out of order.

Shall section 131, as amended, carry?

Mr Duncan: We're on section 131. We're voting on 131. Are we not allowed to discuss section 131?

The Chair: Yes, Mr Duncan. Go ahead.

Mr Duncan: The reason we had recommended voting against this section is, again, this is an example of where tenants and landlords are treated differently. We think this section points that out very clearly and tilts that balance. It's always a difficult balance to find between landlords and tenants, but this clearly tilts it the other way and affords a different standard of treatment for landlords versus tenants. That's why we had recommended voting against this section.

The Chair: Further debate? Shall section 131, as amended, carry? All those in favour of section 131, as amended? All those opposed? Carried.

Mr Gilchrist: I move that subsection 132(3) of the bill be amended by adding the following clause:

"(c) that the rent charged be reduced by a specified amount for a specified period if there has been a temporary reduction in a service."

This is an amendment that allows the tribunal to order a rent reduction for a specific period of time if there has been a temporary reduction in a service.

The Chair: Debate? All those in favour? Opposed? The motion is carried.

Mr Duncan: I move that subsection 132(5) of the bill be amended by striking out "one" in the second line and substituting "six."

Again we come back to the issue of fairness. This treats tenants, gives tenants, six years to apply for unfairly collected rents which makes it similar to what landlords are given in terms of going back after tenants. We think that if you're interested in striking a fair balance, the appropriate figure there should be six years.

The Chair: Debate? All those in favour of this motion? Opposed? This motion fails.

Page 155, Mr Silipo, is out of order.

Shall section 132, as amended, carry? All those in favour of section 132, as amended? All those opposed? Carried.

Mr Duncan: I move that subsection 133(2) of the bill be amended by striking out "may" in the second line and substituting "shall."

I will refer government members to section 133 in the bill as it is. This section deals with reduction in rent, reduction in taxes:

"(1) A tenant of a rental unit may apply to the tribunal for an order for a reduction of the rent charged for the rental unit due to a reduction in the municipal taxes and charges for the residential complex."

"(2) The tribunal shall make findings in accordance with the prescribed rules and may order that the rent charged for the rental unit be reduced."

We suggest if the government is serious about passing on reductions in taxes to tenants, it will change "may" to "shall."

Mr Gilchrist: I'm not going to presume to be a lawyer, I'll leave that to Mr Duncan, but clearly the tribunal must make its finding first before it then issues an order. "The tribunal shall make findings in accordance with the prescribed rules...." That's the opening part of that sentence. If in fact municipalities cut taxes and the rules say that when a municipality cuts taxes the tenant gets the proceeds, the tribunal shall make a finding on that basis only.

I'm sure you would agree with me that the application does not trigger the order. The finding triggers the order. You could very well have a circumstance where a tenant makes an application that is not true, is not founded in fact, the municipality really didn't cut their property taxes, the tenant thinks they did and makes an application to the tribunal. That is why the tribunal obviously would have the ability to say, and may order, that the rent charged for the rental unit be reduced, but that does not presume they have the ability to deviate from the prescribed rules.

The opening part of that sentence makes it very clear, and I can assure you that the prescribed rules will specify that when the municipality cuts the taxes, that will be the thing that binds the hands of the tribunal.

1620

Mr Duncan: If you go through other sections of the bill that direct the tribunal, you will find in a number of sections that the word "shall" is used, particularly in issues that involve a benefit or a potential benefit to a landlord, and we think you've been inconsistent in this.

With respect to the prescribed rules, we don't understand why you wouldn't be clearer in the bill itself. We feel and believe that if you were serious in your commitment, then you would amend this section accordingly. I suppose we can dispute the wording, but we as well had this looked at and we compared it to other sections where you've given very clear instructions to the tribunal and think that if you were serious you'd give very clear and unequivocal instructions to the tribunal in the statute, that where there is a municipal property tax decrease it shall be passed on to the tenant.

The Chair: Further debate? All those in favour of this motion? Opposed? This motion fails.

Mr Duncan: I move that section 133 of the bill be amended by adding the following subsections:

"Reassessment

"(3) Where the property tax for a residential complex has been reduced as a result of a reassessment of properties in a municipality under the Fair Municipal Finance Act, 1997, the municipality shall notify all landlords and tenants affected by the reduction of the amount of the reduction for the residential complex and for the rental units the tenants own or rent, and the rent for each rental unit shall be decreased by that amount on the effective date specified in the notice.

"Same

"(4) Where the property tax for a residential complex has been reduced as a result of a reassessment by the Assessment Review Board, the board shall notify all landlords and tenants affected by the reduction of the amount of the reduction for the residential complex and for the rental units the tenants own or rent, and the rent for the rental units shall be decreased by that amount on the effective date specified in the notice."

I'm not sure — I'll allow the parliamentary assistant to address the wording you provided in the past, earlier — whether this is similar in context, but we are attempting, through these sections, where there's an application made by a tenant to the tribunal, to be very clear, especially under the Fair Municipal Finance Act, that any decreases in property taxes be passed on to the tenant.

Mr Silipo: I think you know, Chair, that we have an identical amendment, and the other important point that's in here is a requirement to the municipality and the Assessment Review Board, as the case may be, in either circumstance, to notify landlords and certainly tenants of any reduction in the assessment and therefore in the property taxes to be paid for the complex.

We think that's important. I hope the government can accept it, because I don't think that this concept was picked up by the earlier amendment the government proposed and passed.

Mr Gilchrist: To both my colleagues: The interpretation we've got is that it is in fact covered under the section we've amended, that for example a ruling by the Assessment Review Board would be communicated to the municipality and they would in turn be required to pass it on to tenants. I would point out to you that unlike our amendment, you limit automatic rent reductions to tax decreases only related to a reassessment of rental property. For example, any tax changes due to municipal amalgamations, the educational funding changes, all of those things would not accrue under yours. So you would be limiting the number of scenarios under which tenants could possibly get a tax decrease.

Mr Silipo: You've already taken care of that elsewhere.

The Chair: Any further debate? All in favour of this motion? All opposed? The motion fails.

Mr Silipo, this motion of yours on page 158 is out of order.

Shall section 133 carry? All those in favour of section 133? Opposed? Section 133 carries.

We are on to section 134, a replacement page for Mr Duncan, page 159.

Mr Duncan: I move that subsection 134(4) of the bill be struck out.

This section only gives tenants one year to get money improperly collected by landlords. It relates back to the amendment we placed with respect to six years the other way. Accordingly, we believe that this should be struck out. Landlords and tenants should be treated equally in the statute.

The Chair: Debate? All those in favour? All those opposed? The motion fails.

Mr Silipo, that's identical on page 160; that's out of order.

Shall section 134 carry? Carried.

Shall sections 135, 136, 137, 138, 139, 140, 141, 142, 143 and 144 carry? Sections 135, 136, 137, 138, 139, 140, 141, 142, 143 and 144 are carried.

We have reached section 145, which is a replacement page of the government.

Mr Gilchrist: I move that subsection 145(3) of the bill be struck out.

The reason we're proposing this: This subsection would give the province the authority to issue work orders against a condominium corporation where the following conditions apply: the condominium corporation operates a building containing rental units; the building is covered by the provincial rental maintenance standards; violation of the provincial maintenance standards have been identified which relate to the common elements of the building. However, concern was expressed that it is not appropriate to issue provincial work orders against condominium corporations because such corporations are not landlords per se. This concern would be addressed by the motion which recommends that we delete this section.

The Chair: Debate? All those in favour of this motion? All those opposed? The motion carries.

Shall section 145, as amended, carry? Carried.

We have dealt with section 146; we have dealt with section 146.1. The pages are just flying through here, aren't they?

Shall sections 147, 148, 149, 150, 151, 152, 153, 154, 155, 156 and 157 carry? Sections 147, 148, 149, 150, 151, 152, 153, 154, 155, 156 and 157 are carried.

We are now at section 158, which is page 167. It's Mr Duncan's motion.

Mr Duncan: I move that subsection 158(1) of the bill be amended by adding at the end "and an annual summary of significant decisions."

This would require the tribunal to table certainly significant decisions in its annual report, which is consistent with other government agencies and tribunals, and we believe will assist in future deliberations of both the landlords and tenants.

Mr Gilchrist: We agree that the preparation of a summary of those sorts of decisions is significant and we will expect the tribunal to do so. However, we think it unnecessary to prescribe a formal requirement and in particular to specify that there's only a fixed time at which they would prepare that summary. We would expect that copies of decisions be requested from the tribunal at any time. So we will be opposing this motion.

The Chair: Debate? All those in favour of this motion? All those opposed? The motion fails.

Shall section 158 carry? All those in favour of section 158? All those opposed? Carried.

Shall sections 159, 160 and 161 carry? Sections 159, 160 and 161 are carried.

We are now at page 168, which is a government motion.

1630

Mr Gilchrist: I move that subsection 162(1) of the bill be amended by striking out "contain" in the third line and substituting "be accompanied by."

The reason for this amendment is that the Tenant Protection Act as originally drafted requires the prescribed information be contained in the application. The amendment identifies that information as accompanying the application and relieves the applicant from having to serve that information on other parties.

The Chair: All those in favour of this motion? Opposed? This motion carries.

Mr Duncan, page 169.

Mr Duncan: I move that subsection 162(2) of the bill be amended by striking out "may" in the third line and substituting "shall."

This would require that if an applicant to the tribunal authorizes an agent to act on their behalf, that authorization must be filed with the tribunal.

The Chair: All those in favour of this motion? Opposed? This motion fails.

Shall section 162, as amended, carry? All those in favour of section 162, as amended? All those opposed? Section 162, as amended, is carried.

Shall section 163 carry? Section 163 is carried.

We are on to section 164. It's a Liberal motion on page 170.

Mr Duncan: I move that subsection 164(2) of the bill be amended by striking out "may" in the first line and substituting "shall."

This gives stronger powers to the tribunal to add or remove additional parties to a tribunal hearing.

The Chair: All those in favour of this motion? Opposed? This motion fails.

Page 171, a New Democratic Party motion.

Mr Silipo: I move that section 164 of the bill be amended by adding the following subsection:

"Same

"(3) If, on conducting a hearing, the tribunal believes that the rents of one or more rental units in the residential complex would be directly affected by the issues raised in an application for a reduction in rent, the member shall

add the tenants of those rental units as parties to the application."

This amendment just clarifies an important concept, we believe, which is that when there are hearings that affect one or more of the rental units in a particular complex, all of the tenants should be added as parties and that in fact there's an obligation put on to the tribunal to do that.

The Chair: All those in favour of this motion? Opposed? This motion fails.

Shall section 164 carry? All those in favour of section 164? All those opposed? Section 164 is carried.

Shall section 165 carry? Section 165 is carried.

We are on to page 172, a government motion.

Mr Gilchrist: I move that subsection 166(2) of the bill be struck out and the following substituted:

"Same

"(2) The tribunal may extend or shorten the time requirements with respect to any matter in its proceedings, other than the prescribed time requirements, in accordance with the rules."

It's fairly self-explanatory. It sets out the power to alter any of their proceedings except the time and notice periods.

The Chair: All those in favour of this motion? Opposed? The motion carries.

Shall section 166, as amended, carry? Section 166, as amended, is carried.

We're on to page 173, a government motion.

Mr Gilchrist: I move that subsection 167(1) of the bill be amended striking out "Le requérant" at the beginning of the French version and substituting "L'intimé" and by adding the following paragraph:

"2.1 A tenant's application under section 84 (compensation, overholding subtenant)."

This amendment adds to the list of applications which must be disputed by a respondent in order that a hearing is held. The added application is compensation for an overholding subtenant. There's also an amendment to correct the French translation provision, on the assumption that my pronunciation did correct it.

The Chair: All those in favour of this motion? Opposed? This motion is carried.

Page 174.

Mr Silipo: I move that subsection 167(1) of the bill be amended by inserting after "tribunal" in the third line "attending at the office where the application was issued and advising a member or employee of the tribunal that he or she disputes the applicant and such attendance shall constitute the filing of a dispute."

We believe there may be instances where requiring the respondent, likely the tenant or it could even be the landlord in some cases, to provide that in writing may be unreasonable, and if we allow also a situation in which the person is prepared and able to attend at the office where the application was issued and advise an employee of the tribunal that they dispute the application, that should be sufficient grounds for them to have been considered to be disputing the application.

The Chair: All those in favour of this motion? Opposed? This motion fails.

Page 175.

Mr Duncan: I move that clause 167(2)(a) of the bill be amended by striking out "five" in the third line and substituting "14."

We are moving this because we believe that the amount of time allowed for filing an appeal to a dispute in an application to the tribunal isn't sufficient. We heard that testimony from a number of practitioners, people who are experienced in dealing with this. We have recommended 14. The third party has recommended 20. I think the message here is that the current five days is just too short a period and we believe the government ought to revisit that whole issue.

The Chair: All those in favour of this motion? Opposed? This motion fails.

Page 176.

Mr Silipo: I move that clause 167(2)(a) of the bill be amended by striking out "five" in the third line and substituting "20."

The Chair: All those in favour of this motion? Opposed? This motion fails.

Shall section 167, as amended, carry? Section 167, as amended, is carried.

Page 177, section 168, there's an amendment to that.

Mr Gilchrist: I move that subsection 168(2) of the bill be amended by striking out "a reasonable time before the hearing" at the end and substituting "the required time period."

This is part of the procedural rules setting out the procedure which the tribunal will follow. The tribunal may find a document delivered, if it was given to the person for whom it was intended within the adequate period of time before a hearing, even if the method of delivery used was not one set out subsection 168(1). Under the amendment, the tribunal would determine whether the document was served within the time required in the act instead of "a reasonable time."

The Chair: All those in favour of this motion? Opposed? The motion carries.

We're on to replacement page 178.

Mr Duncan: I move that subsection 168(2) of the bill be struck out.

Again, we believe that this confuses the notice requirements for an issue that goes before the tribunal and believe that things should be done in writing and, therefore, believe that this section should be struck out.

The Chair: All those in favour of this motion? Opposed? The motion fails.

Replacement page 179 is identical, Mr Silipo, so it is out of order.

Shall section 168, as amended, carry? All those in favour? All those opposed? Section 168, as amended, carries.

Shall section 169 carry? Section 169 carries.

Shall section 170 carry? Section 170 is carried.

We're on to replacement page 180, a New Democratic motion.

Mr Silipo: I move that subsections 171(2) and (3) of the bill be struck out.

These subsections would allow for a settlement or exceptions to be made outside of the legislation and we believe, again as we've said throughout, that the legislation should guide the arrangements and the agreements between landlords and tenants.

The Chair: All those in favour of this motion? Opposed? This motion fails.

Shall section 171 carry? Section 171 is carried.

We are on to section 172, page 181, a Liberal motion.

Mr Duncan: I move that section 164 of the bill be amended by adding the following subsection:

"Exception

"(4) Despite subsection (3), the tribunal may refuse to consider the evidence and submissions of a tenant only if, as a dispute to a claim for arrears of rent, the tenant is alleging that the landlord is in breach of the landlord's obligation to the tenant and, after being informed of his or her obligation to do so, the tenant fails to pay the rent in arrears to the tribunal."

We are attempting through this just to give more clarity to what can and cannot be paid to the tribunal.

1640

The Chair: All those in favour of this motion? Opposed? This motion fails.

Mr Silipo, your motion is out of order; it's identical.

Shall section 172 carry? All those in favour? All those opposed? Section 172 carries.

Shall section 173 carry? Section 173 is carried.

We're on to page 183, a government motion.

Mr Gilchrist: I move that section 174 of the bill be amended by adding the following subsection:

"Exception

"(2) Subsections 5.1 (2) and (3) of the Statutory Powers Procedure Act do not apply with respect to an application under sections 127.2 or 133 or an application solely under paragraph 1 of subsection 128(1)."

This section sets out that the Statutory Powers Procedure Act applies to proceedings under this act. This technical amendment exempts proceedings under this act from two provisions dealing with written hearings. Subsection 5.1(2) of the Statutory Powers Procedure Act prohibits the tribunal from holding a written hearing if a party objects. This amendment would allow a tribunal to hold a written hearing if it seems the circumstances are appropriate. Also, if a written hearing is held, it will not be the tribunal's responsibility to provide copies of all documents submitted; rather it will be the responsibility of the parties themselves to obtain copies. The purpose of this amendment is to allow for written hearings to be conducted efficiently.

The Chair: All those in favour of this motion? Opposed? This motion carries.

Shall section 174, as amended, carry? Section 174, as amended, is carried.

Shall section 175 carry? Section 175 is carried.

Shall section 176 carry? Section 176 is carried.

Shall section 177 carry? Section 177 is carried.

Shall section 178 carry? Section 178 is carried.

We are on to page 184, a government motion.

Mr Gilchrist: I move that the bill be amended by adding the following section:

"Correction of deemed rent

"178.1 In any application made under this act in which rent for a rental unit is in issue, the tribunal may correct an error in deeming the amount of rent, the date it took effect or the inclusion of a service in rent and may take into account the rent, the effective date or the service that ought to have been deemed if,

"(a) the amount of rent or date it took effect was deemed to be lawful or the service was deemed to be included in the rent by the operation of the Rent Control Act, 1992 or the Residential Rent Regulation Act; and

"(b) the tribunal is satisfied that an error or omission in a document filed by a landlord or tenant led to the error in the deeming."

The reason for this amendment: It's part of the procedural rules for the tribunal to follow. In deciding what the rent should be for a rental unit, the tribunal will have the authority in certain circumstances to correct a rent or related information incorrectly deemed lawful under either the Rent Control Act or the Residential Rent Regulation Act. It essentially allows the tribunal to correct errors made by landlords and tenants when they submitted rent information to previous boards.

The Chair: Shall this motion carry? All those in favour? All those opposed? This motion is carried.

We are on to replacement page 185, which is a Liberal motion.

Mr Duncan: I move that subsections 179(2), (3) and (4) of the bill be struck out.

Those sections deal with what a tribunal may order a party to an application to pay. Again, the assignment of cost is at issue here. We're recommending these be struck out.

The Chair: All those in favour of this motion? Opposed? This motion fails.

Mr Silipo, replacement page 186 is identical and is out of order.

Shall section 179 carry? Section 179 is carried.

Mr Duncan: No.

The Chair: I'm afraid you're a little late, Mr Duncan. We're on to page 187, which is section 180, a Liberal motion.

Mr Duncan: I move that section 180 of the bill be amended by adding the following subsection:

"Same

"(4) An order providing for monthly instalments shall not provide for more than 12 monthly instalments."

This ensures that any payments ordered by the tribunal be paid within one year.

Mr Gilchrist: Further buttressing our argument that we indeed listen, the government will be supporting this amendment. We think it's quite appropriate to limit the instalments to no more than 12 months. So we're pleased to vote along with Mr Duncan on this one.

The Chair: All those in favour of this motion? This motion carries.

Shall section 180, as amended, carry? Carried.

We're on to page 188, section 181, a Liberal motion.

Mr Duncan: I move that subsection 181(1) of the bill be amended by inserting after "paragraph" in the fifth line "but no order shall be made under this subsection unless the material filed with the tribunal discloses on its face that the applicant is entitled to that order."

This ensures that the tribunal does not automatically accept an application not disputed without ensuring that the applicant is entitled to that order.

The Chair: All those in favour of this motion? Opposed? This motion fails.

Page 189 is a New Democratic motion, Mr Silipo, and it's out order. It's the same as page 188.

Page 190 is a government motion.

Mr Gilchrist: I move that subsection 181(1) of the bill be struck out and the following substituted:

"Default orders

"(1) The tribunal may make an order with respect to any of the following applications without holding a hearing if the application is not disputed:

"1. An application to terminate a tenancy or to evict a person, other than an application based in whole or in part on a notice of termination under section 61.1.

"2. A landlord's application for arrears of rent, compensation, damages or for the payment of money as a result of misrepresentation of income.

"3. A tenant's application under section 84 (compensation, overholding subtenant).

"4. A tenant's application under section 134 (money collected illegally).

"5. A tenant's application claiming that a landlord unreasonably withheld consent to an assignment or subletting of a rental unit."

The reason we opposed the previous amendment which was duplicated by the two parties is that obviously we have removed the entire section 181.1 and replaced it with a very clear delineation of the types of application under which the tribunal may issue a default order, if the application is not disputed. This amendment adds to the list an application made under section 84 for compensation for an overholding subtenant.

The Chair: Debate? All those in favour of this motion? Opposed? This motion carries.

Page 191, a Liberal motion.

Mr Duncan: I move that subsection 181(2) of the bill be amended by striking out "issued" in the second line and substituting "served on the respondent."

This will ensure that the respondent to a tribunal decision is actually notified of the tribunal's decision.

The Chair: All those in favour of this motion? Opposed? This motion fails.

Mr Silipo, your motion is out of order as being identical to the one we just voted on.

Shall section 181, as amended, carry? All those in favour? All those opposed? Section 181, as amended, is carried.

We're on to section 182, a government motion on page 193.

Mr Gilchrist: I move that subsection 182(1) of the bill be struck out and the following substituted:

"Monetary jurisdiction of tribunal

"(1) The tribunal may, where it otherwise has the jurisdiction, order the payment to any given person of an amount of money up to \$10,000 or the monetary jurisdiction of the Small Claims Court in the area where the residential complex is located, whichever is greater.

"Same

"(1.1) A person entitled to apply under this act but whose claim exceeds the tribunal's monetary jurisdiction may commence a proceeding in any court of competent jurisdiction for an order requiring the payment of that sum and, if such a proceeding is commenced, the court may exercise any powers that the tribunal could have exercised if the proceeding had been before the tribunal and within its monetary jurisdiction."

The reason for this amendment: It provides that the monetary jurisdiction of the tribunal is \$10,000 per person, so in the case of a joint application it clarifies that they could now apply for, obviously, \$10,000 times the number of people applying, or the monetary jurisdiction of the local Small Claims Court, whichever is greater, rather than the \$10,000 per application, as was the case before.

It also clarifies that a person whose claim exceeds the tribunal's monetary jurisdiction may apply to court, and further, that the court may assume fully the tribunal's power to proceed on the claim.

The Chair: Debate? All those in favour of the motion? Opposed? This motion is carried.

Shall section 182, as amended, carry? Carried.

1650

Mr Gilchrist: I move that the bill be amended by adding the following section:

"Notice of decision

"182.1(1) The tribunal shall send each party who participated in the proceeding, or the party's counsel or agent, a copy of its order, including the reasons if any have been given, in accordance with section 168.

"Same

"(2) Section 18 of the Statutory Powers Procedure Act does not apply to proceedings under this act."

The reason for this amendment: This amendment requires the tribunal to send a copy of its decision to all parties who participated in the proceeding. It clarifies that the rules for delivery contained in the Statutory Powers Procedure Act do not apply, as the act sets out its own rules regarding delivery. This act sets out rules which are more flexible for the parties and for the tribunal to use. Further, having two sets of rules for delivery of documents would have caused confusion.

The Chair: Debate? All those in favour of this motion? Opposed? Carried.

Shall sections 183, 184, 185, 186, 187, 188, 189 and 190 carry? Sections 183, 184, 185, 186, 187, 188, 189 and 190 are carried.

Mr Gilchrist: I move that subsection 191(1) of the bill be struck out and the following substituted:

"Inspection powers of inspector, investigator

"(1) Subject to subsection (2), an inspector or investigator may, at all reasonable times and upon producing proper identification, enter any property for the purpose of carrying out his or her duty under this act and may,

"(a) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the inspection or investigation;

"(b) inspect and remove documents or things relevant to the inspection or investigation for the purpose of making copies or extracts;

"(c) require information from any person concerning a matter related to the inspection or investigation;

"(d) be accompanied by a person who has special or expert knowledge in relation to the subject matter of the inspection or investigation;

"(e) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection or investigation; and

"(f) order the landlord to take and supply at the landlord's expense such tests and samples as are specified in the order.

"Samples

"(1.1) The inspector or investigator shall divide the sample taken under clause (1)(e) into two parts and deliver one part to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities.

"Same

"(1.2) If an inspector or investigator takes a sample under clause (1)(e) and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.

"Receipt

"(1.3) An inspector or investigator shall provide a receipt for any documents or things removed under clause (1)(b) and shall promptly return them after the copies or extracts are made.

"Evidence

"(1.4) Copies of or extracts from documents and things removed under this section and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as and have the same evidentiary value as the originals."

As background, as a result of the Tenant Protection Act, the authority for municipal property standards enforcement would be transferred from the Planning Act to the Building Code Act. In the process, municipal property standards officers would be given additional powers of inspection so that these powers would be equivalent to those available to building inspectors. These additional powers include the authority to be accompanied by a person with expert knowledge who can make tests and collect samples. The proposed revision would give provincial inspectors responsibility for enforcing the provincial

maintenance standards and give them the same powers as those available to property standards officers.

The Chair: Debate? All those in favour of this motion? Opposed? Carried.

Shall section 191, as amended, carry? Carried.

I wish to tell the committee that the Chair's clock, contrary to the clock before you — we have exactly five minutes.

Shall sections 192 and 193 carry? Carried.

Mr Duncan: I'm going to put this motion. I believe it may be out of order.

I move that subsection 194(1) of the bill be amended by adding the following paragraph:

"30. Contravenes section 27.1 or 27.2."

The Chair: You're right. I haven't a clue what it means. It's out of order.

Mr Duncan: I can tell you why it's out of order: because our proposed amendments were defeated. This would have required landlords to give receipts and would have established a penalty or an offence if they didn't give receipts. The amendments we put were in fact defeated.

The Chair: Are you withdrawing it?

Mr Duncan: If that makes your life easier, Mr Chair, I will withdraw it.

The Chair: It makes my life a lot easier when we've got two minutes to go. Excellent.

We are on to page 199, which is a Liberal motion.

Mr Duncan: I move that section 194 of the bill be amended by adding the following subsection:

"Same

"5(1) In the case of a person, other than a corporation, who is guilty of an offence under paragraph 22, 23 or 24 of subsection (1) or under subsection (2), the fine shall not be less than \$1,000."

This would set up a minimum fine for landlord harassment and coercion. We believe that if the government is serious about addressing this issue, no matter how high you set a maximum, if the maximum fine is never levied, then it's really nothing but a political exercise. We think that if the government is serious about dealing with harassment, having acknowledged that it will create an environment for much more harassment, a minimum fine would be appropriate and we've recommended \$1,000.

The Chair: Further debate? All those in favour of this motion? Opposed? This motion fails.

Mr Silipo's is identical and it is out of order.

Mr Duncan: I move that section 194 of the bill be amended by adding the following subsection:

"Same

"(6.1) In the case of a corporation that is guilty of an offence under paragraph 22, 23 or 24 of subsection (1) or under subsection (2), the fine shall not be less than \$1,000."

Again, we're attempting to establish a minimum fine.

The Chair: Debate? All those in favour of this motion? Opposed? This motion fails.

Mr Silipo, your motion is out of order as being identical.

We have a government motion on page 203. Mr Gilchrist, you've got about enough time to read it.

Mr Gilchrist: I will do my darnedest here, Chair.

I move that section 194 of the bill be struck out and the following substituted:

"Offences

"194(1) Any person who knowingly does any of the following is guilty of an offence:

"1. Restrict reasonable access to the residential complex by political candidates or their authorized representatives in contravention of section 22.

"2. Alter or cause to be altered the locking system on any door giving entry to a rental unit or the residential complex in a manner that contravenes section 23.

"3. Withhold reasonable supply of a vital service, care service or food or deliberately interfere with the supply in contravention of section 25.

"4. Harass, hinder, obstruct or interfere with a tenant in the exercise of,

"i. securing a right or seeking relief under this act or in the court,

"ii. participating in a proceeding under this act, or

"iii. participating in a tenants' association or attempting to organize a tenants' association.

"5. Harass, coerce, threaten or interfere with a tenant in such a manner that the tenant is induced to vacate the rental unit.

"6. Harass, hinder, obstruct or interfere with a landlord in the exercise of,

"i. securing a right or seeking relief under this act or in the court, or

"ii. participating in a proceeding under this act.

"7. Seize any property of the tenant in contravention of section 29.

"8. Obtain possession of a rental unit improperly by giving a notice to terminate in bad faith.

"9. Fail to afford a tenant a right of first refusal in contravention of section 52 or 54.

"10. Recover possession of a rental unit without complying with the requirements of sections 53, 55 and 56.

"11. Coerce a tenant of a mobile home park or land lease community to enter into an agency agreement for the sale or lease of their mobile home or land lease home or to require an agency agreement as a condition of entering into a tenancy agreement.

"12. Coerce a tenant to sign an agreement referred to in section 122.

1700

"Same

"(2) Any person who does any of the following is guilty of an offence:

"1. Furnish false or misleading information in any document filed in any proceeding under this act or provided to an inspector, investigator, the minister, a delegate of the minister or any employee or official of the tribunal.

"2. Enter a rental unit where such entry is not permitted by sections 20, 21 or 89 or enter without first complying with the requirements of sections 20, 21 or 89.

"3. Contravene an order of the tribunal under paragraph 4 of subsection 32(1) or clause 33(1)(a).

"4. Unlawfully recover possession of a rental unit.

"5. Give a notice to terminate a tenancy under section 49 or 50 in contravention of section 52.

"6. Give a notice of rent increase or a notice of increase of a charge in a care home without first giving an information package contrary to section 87.

"7. Increase a charge for providing a care service or meals to a tenant in a care home in contravention of section 95.

"8. Interfere with a tenant's right under section 99 to sell or lease his or her mobile home.

"9. Restrict the right of a tenant of a mobile home park or land lease community to purchase goods or services from the person of his or her choice in contravention of section 102.

"10. Require or receive a security deposit from a tenant contrary to section 110.

"11. Fail to pay to the tenant annually interest on the rent deposit held in respect of their tenancy in accordance with subsection 111(6).

"12. Fail to apply the rent deposit held in respect of a tenancy to the rent for the last month of the tenancy in contravention of subsection 111(7).

"13. Fail to provide a tenant with a receipt in accordance with section 112.1.

"14. Charge rent in an amount greater than permitted under the Act.

"15. Require a tenant to pay rent proposed in an application in contravention of subsection 128(4).

"16. Charge or collect amounts from a tenant, a prospective tenant, a subtenant, a potential subtenant, an assignee or a potential assignee in contravention of section 130.

"17. Fail to comply with any or all of the items contained in a work order issued under section 145.

"18. Charge an illegal contingency fee in contravention of subsection 187(1).

"19. Obstruct or interfere with an inspector or investigator exercising a power of entry under section 191.

"Same

"(3) Any landlord or superintendent, agent or employee of the landlord who knowingly harasses a tenant or interferes with a tenant's reasonable enjoyment of a rental unit or the residential complex in which it is located is guilty of an offence.

"Same

"(4) Any person who knowingly attempts to commit any offence referred to in subsection (1), (2) or (3) is guilty of an offence.

"Same

"(5) Every director or officer of a corporation who knowingly concurs in an offence is guilty of an offence.

"Same

"(6) A person, other than a corporation, who is guilty of an offence under this section is liable on conviction to a fine of not more than \$10,000.

"Same

“(7) A corporation that is guilty of an offence under this section is liable on conviction to a fine of not more than \$50,000.

“Limitation

“(8) No proceeding shall be commenced respecting an offence under paragraph 1 of subsection (2) more than two years after the date on which the facts giving rise to the offence came to the attention of the minister.

“Same

“(9) No proceeding shall be commenced respecting any other offence under this section more than two years after the date on which the offence was, or is alleged to have been, committed.”

The Chair: Mr Gilchrist, members of the committee, I'm bound by the order of the House to declare that the deliberations must cease and we must start to vote, because it is now 5 o'clock.

Shall the motion just read by Mr Gilchrist carry? The motion is carried.

Shall section 194, as amended, carry? Section 194, as amended, is carried.

Shall section 195 carry? Section 195 is carried.

I'm not going to read these motions, ladies and gentlemen. I'm going to refer to the page numbers, because you all have the pages in front of you.

Shall the government motion on page 207 carry? All those in favour of that motion? All those opposed? That motion is carried.

Shall section 196, as amended, carry? All those in favour of section 196, as amended? All those opposed? Section 196, as amended, is carried.

Shall sections 197, 198 and 199 carry? All those in favour of sections 197, 198 and 199? Opposed? Sections 197, 198 and 199 are carried.

We have debated and voted on section 200.

Shall section 201 carry? All those in favour of section 201? Opposed? Section 201 is carried.

The proposed amendments on pages 213 and 214 are out of order.

Shall section 202 carry? All those in favour of section 202? Opposed? Section 202 is carried.

There is a government motion on page 215. Shall that motion carry? All those in favour of that motion? Opposed? That government motion on page 215 is carried.

Shall section 203, as amended, carry? All those in favour of section 203, as amended? All those opposed? Section 203, as amended, is carried.

Shall sections 204, 205 and 206 carry? All those in favour of sections 204, 205 and 206? Opposed? Sections 204, 205 and 206 have carried.

The Liberal motion on page 216 is not a proper amendment and I would deem it out of order, as I would the New Democratic motion on page 217.

Shall section 207 carry? All those in favour of section 207? All those opposed? Section 207 has carried.

Ladies and gentlemen, I'm having a tough time up here and I can't have this carrying on, so I'm going to have to ask your cooperation to stop the heckling. Thank you.

Shall sections 208, 209, 210 carry? All those in favour of sections 208, 209 and 210? All those opposed? Sections 208, 209 and 210 have carried.

There is a government motion with respect to section 211 on page 218. Shall that motion carry? All those in favour of that motion? Opposed? That motion is carried.

Shall section 211, as amended, carry? All those in favour of section 211, as amended? All those opposed? Section 211, as amended, is carried.

There is a government motion on page 221, which is a proposed amendment to section 212. Shall that motion carry? All those in favour of that motion? All those opposed? That motion carries.

Shall section 212, as amended, carry? All those in favour of section 212, as amended? All those opposed? Section 212, as amended, is carried.

Shall section 213 carry? All those in favour of section 213? All those opposed? Section 213 is carried.

There is a government motion on page 222 with respect to an amendment to section 214. Shall that motion carry? All those in favour of that motion? All those opposed? That motion carries.

Shall section 214, as amended, carry? All those in favour of section 214, as amended? All those opposed? Section 214, as amended, carries.

Shall sections 215 and 216 carry? All those in favour of sections 215 and 216? All those opposed? Sections 215 and 216 have carried.

There is a New Democratic proposed amendment, on page 223, to section 217. Shall that motion carry? All those in favour of that motion? All those opposed? That motion fails.

Shall section 217 carry? All those in favour of 217? Opposed? Section 217 is carried.

We're on to the long title. The New Democratic Party has a proposed amendment on page 224. I'm going to rule that amendment out of order because no amendments have been passed in the bill that would warrant such a motion.

Shall the long title of the bill carry? All those in favour of the long title of the bill? Opposed? The long title of the bill is carried.

Shall Bill 96, as amended, carry? All those in favour of Bill 96, as amended? All those opposed? Bill 96, as amended, is carried.

Members of the committee, shall I report the bill, as amended, to the House? All those in favour of my reporting the bill, as amended, to the House? All those opposed? I will report the bill, as amended, to the House because that is carried.

I guess that's it. Unless there are any other questions, this committee will be adjourned to the call of the Chair.

The committee adjourned at 1712.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair / Président

Mr David Tilson (Dufferin-Peel PC)

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